

**TITLE 41**  
**PUBLIC HEALTH, SAFETY AND WELFARE**

**CHAPTERS**

- 1 Health Services Administration (§§ 101-119)**
- 2 Health Services Personnel (§§ 201-214)**

**SUBCHAPTERS**

- I Licensing (§§ 201-210)**
- II Training (§ 213)**
- 3 Health Care Certificates of Need (§§ 301-314)**
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**CHAPTER 1**  
**Health Services Administration**

**SECTIONS**

- § 101. Duties of director of Health Services generally.**
- § 102. Health regulations.**
- § 103. Isolation and quarantine of contagious diseases.**
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- § 105. Birth and death records.**
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- §§ 107-109. [RESERVED]**
- § 110. Payment of fees for services.**
- §§ 111-118. [RESERVED]**
- § 119. Penalties for violation of this chapter.**

**§ 101. Duties of director of Health Services generally.**

(1) The director of Health Services shall either personally or by his duly authorized representatives maintain and improve health and sanitary conditions, minimize and control communicable disease, establish standards of medical and dental care and practice, encourage scientific investigation in the field of health, and supervise and administer all Government-owned hospitals, sanitariums, clinics, dispensaries, and such other medical and dental facilities as are or may be established throughout the Federated States of Micronesia.

(2) As used in this title “Director of Health Services” means the Secretary of Human Resources or his designee.

**Source:** TT Code 1966 § 611; TT Code 1970, 63 TTC 2; TT Code 1980, 63 TTC 2; PL 5-21 § 5.

**Cross-reference:** FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

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FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

**Case annotations:**

**Professional Services Clause**

The Constitution vests the nat'l gov't with power to act concerning health care and may place some affirmative health care obligations on it. *Manahane v. FSM*, 1 FSM R. 161, 172 (Pon. 1982).

Primary responsibility, perhaps even sole responsibility, for affirmative implementation of the Professional Services Clause, FSM Const. art. XIII, § 1, must lie with Congress. *Carlos v. FSM*, 4 FSM R. 17<sub>2</sub>29 (App. 1989).

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The Professional Services Clause of the Constitution demands that when any part of the nat'l gov't contemplates action that may be anticipated to affect the availability of education, health care or legal services, the nat'l officials involved must consider the right of the people to such services and make a reasonable effort to take "every step reasonable and necessary" to avoid unnecessarily reducing the availability of the services. *Carlos v. FSM*, 4 FSM R. 17, 30 (App. 1989).

Since the Constitution's Professional Services Clause is a promise that the nat'l gov't will take every step "reasonable and necessary" to provide health care to its citizens, a court should not lightly accept a contention that 6 FSMC 702(4), which creates a \$20,000 ceiling of governmental liability, shields the gov't against a claim that FSM gov't negligence prevented a person from receiving necessary health care. *Leeruw v. FSM*, 4 FSM R. 350, 362 (Yap 1990).

### **§ 102. Health regulations.**

- (1) The director of Health Services shall, subject to the approval of the High Commissioner, have powers to make such regulations as he deems necessary for the public health and safety respecting:
- (a) nuisances, foul and noxious odors, gases or vapors, water in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the Territory, and on board any vessel;
  - (b) adulteration and misbranding of food, drugs, or milk;
  - (c) location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, construction projects, excavations, pools, watercourses, areas, and alleys;
  - (d) privy vaults and cesspools and other means of human excreta disposal;
  - (e) fish and fishing;
  - (f) interments and dead bodies;
  - (g) disinterments of dead human bodies, including the exposing, disturbing, or removing of such bodies from their place of burial or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
  - (h) cemeteries and burying grounds;
  - (i) laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses or professions: barbershops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where food or beverages are canned or bottled for public consumption or sale; provided that nothing contained in this section shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where such laundering or sterilization is done in an efficient and sanitary manner;
  - (j) hospitals, maternity homes, convalescent homes, children's boarding homes, and old folks' homes;
  - (k) hotels, roominghouses, lodginghouses, apartment houses, and tenements;
  - (l) laboratories;
  - (m) quarantine of communicable disease and inspection;
  - (n) poisons, air conditioning, and ventilating; fumigation;

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(o) places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;

(p) any restaurant, theater, market, stand, shop, store, factory, buildings, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;

(q) foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;

(r) devices, including their components, parts, and accessories, intended

(i) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man, or

(ii) to affect the structure or any function of the body of man;

(s) sources of ionizing radiation, radiation protection;

(t) medical examination, vaccination, revaccination, and immunization of school children;

(u) disinsectization of aircraft entering within the Trust Territory as may be necessary to prevent the introduction, transportation, or spread of disease or the introduction or spread of any insect or other vector of significance to health.

(2) The director of Health Services may require such certificates, permits, or licenses as he may deem necessary adequately to regulate the conditions or businesses referred to in this section.

**Source:** TT Code 1966 § 621; COM PL 2-15 § 20; COM PL 3-35 § 1; TT Code 1970, 63 TTC 3; COM PL 5-2 § 2; TT Code 1980, 63 TTC 3.

### **§ 103. Isolation and quarantine of contagious diseases.**

Persons suffering from contagious disease, and persons who have been exposed to such diseases may be isolated and quarantined in accordance with regulations issued pursuant to this title.

**Source:** TT Code 1966 § 621; TT Code 1970, 63 TTC 101; TT Code 1980, 63 TTC 101.

### **§ 104. Importation of *psittacine* birds.**

No birds of the *psittacine* family, parrots, parakeets, love birds, etc., shall be imported into the Trust Territory without specific approval in each case by the director of Health Services. Birds kept in violation of this section may be ordered exported or destroyed by the District director of Health Services.

**Source:** TT Code 1966 § 620; TT Code 1970, 63 TTC 102; TT Code 1980, 63 TTC 102.

### **§ 105. Birth and death records.**

(1) The Department of Health Services shall be responsible for:

(a) the prompt collection of vital statistical information concerning all births and deaths occurring in the Trust Territory;

(b) preparing forms and issuing instructions necessary for uniform registration of births and deaths;

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(c) filing a copy of the certificate of such birth or death with the clerk of courts of the district in which the birth or death occurred; and,

(d) compiling, analyzing, and publishing vital statistics concerning births and deaths, and such other general welfare of the inhabitants of the Trust Territory.

(2) Other departments, as designated by the High Commissioner, shall cooperate with and assist the Department of Health Services in performing these functions.

(3) The clerk of courts in each district shall register births and deaths by recording and indexing each birth and death certificate filed in his office in accordance with the regulations provided in this chapter.

**Source:** TT Code 1966 § 624; TT Code 1970, 63 TTC 51; TT Code 1980, 63 TTC 51.

**§ 106. Autopsies.**

Autopsies and post-mortem examinations may be performed by a physician as a means of revealing or clarifying the cause of death, provided each examination does not violate local custom, and provided written consent is secured from the nearest responsible relative. In the case of a death under conditions suggesting poisoning, violence, or unusual circumstances, where the cause and manner of death cannot otherwise be satisfactorily ascertained, an autopsy shall be performed if practicable, whenever recommended by the District director of health services or the District Attorney and approved by the District Administrator.

**Source:** TT Code 1966 § 623; TT Code 1970, 63 TTC 52; TT Code 1980, 63 TTC 52.

**§§ 107-109. [RESERVED]**

**Editor's note:** Sections 107-109, and 111-118, were reserved in the 1982 edition of this code.

**§ 110. Payment of fees for services.**

Individual or group fees shall be paid for all medical and dental services provided by the Government of the Trust Territory in accordance with schedules and regulations recommended by the director of Health Services and approved by the High Commissioner, except for such services as the High Commissioner determines shall be free in order to best serve the public interest. No one in need of medical care shall be denied such care because of inability to pay all or any part of any fee established. There shall be no distinction in treatment or care based upon nonpayment or the amount of payment.

**Source:** TT Code 1966 § 617; TT Code 1970, 63 TTC 155; TT Code 1980, 63 TTC 155.

**§§ 111-118 [RESERVED]**

**Editor's note:** Sections 107-109, and 111-118, were reserved in the 1982 edition of this code.

**§ 119. Penalties for violation of this chapter.**

A person who violates any of the provisions of this chapter or regulations issued pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500, or imprisoned for not more than one year, or both.

**Source:** TT Code 1966 § 625; TT Code 1970, 63 TTC 103; TT Code 1980, 63 TTC 103.

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**CHAPTER 2**  
**Health Services Personnel**

**SUBCHAPTER I**  
**Licensing**

**SECTIONS**

- § 201. Short title.
- § 202. Definitions.
- § 203. FSM Medical Licensing Board.
- § 204. Expenses and compensation of Board members.
- § 205. Appropriation.
- § 206. License to practice required.
- § 207. Regulations—Fees.
- § 211. Display and record of licenses.
- § 212. Revocation or suspension of license—Disciplinary action.
- § 213. Traditional healing arts exempt.
- § 214. Civil liability immunity.
- § 209. Confidentiality of records.
- § 210. Penalty.

**SUBCHAPTER II**  
**Training**

**SECTIONS**

- § 213. Training.

**SUBCHAPTER I**  
**Licensing**

**§ 201. Short title.**

This subchapter shall be known and may be cited as the “Federal States of Micronesia Medical Licensing Act”.

**Source:** PL 4-41 § 1; PL 13-55 § 1.

**Editor's note:** PL 4-41, codified in this subchapter, apparently supersedes PL 3-79 on the same subject. PL 3-79 is not codified.

**§ 202. Definitions.**

As used herein unless otherwise indicated by the context:

- (1) “Board” means the FSM Medical Licensing Board.
- (2) “Practice of medical health care” includes activities as a doctor, optometrist, dentist or pharmacist, as those activities may be described by the President or the Board pursuant to this subchapter or amendments hereto.
- (3) “President” means the President of the Federated States of Micronesia.

(4) “Secretary of Health, Education and Social Affairs” means the Secretary of the Department of Health, Education and Social Affairs of the Federated States of Micronesia.

**Source:** PL 4-41 § 2; PL 4-102 § 1; PL 5-21 § 11; PL 8-45 § 32, modified; PL 13-55 § 2.

**§ 203. FSM Medical Licensing Board.**

There is hereby established a Federated States of Micronesia Medical Licensing Board. The Board shall have three members. The Secretary of Health, Education and Social Affairs or his designee shall represent the National Government. Two members shall be appointed by the President of the Federated States of Micronesia from within the medical field. Members shall be appointed for four-year terms. A vacancy on the Board shall be filled for the unexpired term by the appointment of a successor. The members of the Board shall elect a Chairman and Vice Chairman in a manner and for such terms as determined by the Board. Two members of the Board shall constitute a quorum. Decisions of the Board shall be made by majority of the members of the Board. Regular meetings shall be held at locations and at times as the Chairman of the Board may designate, and in accordance with regulations promulgated hereunder. Special meetings may be called by the President or the Secretary of Health, Education and Social Affairs. The Board shall have the following duties and functions;

- (1) To advise and assist the Secretary of Health, Education and Social Affairs in carrying out his duties under section 207 of this chapter;
- (2) To examine, study, review, and make recommendations with respect to the issuance, renewal, suspension, or revocation of licenses issued or in effect pursuant to the provisions of this chapter in accordance with the regulations promulgated hereunder; and
- (3) To perform such other duties and functions as may be assigned by the President, the Secretary of Health, Education and Social Affairs, or by law.

**Source:** PL 13-55 § 5.

**Editor’s note:** PL 13-55 § 5 contained a semicolon before the subsections, this has been changed to a colon for format consistency.

Section 3 of PL 13-55 renumbered sections 203 and 205 to 211 of this chapter to 206 and 208 to 214, respectively.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

- (r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

**§ 204. Expenses and compensation of Board members.**

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Members of the Board shall be entitled to necessary travel expenses and to per diem at standard Federated States of Micronesia rates while on the business of the Board. Board members who are neither employees nor officials of the National Government of the Federated States of Micronesia or any State government shall, in addition, be paid \$30 per day while on the business of the Board. If a member of the Board is concurrently employed by the Federated States of Micronesia National Government, he shall be granted administrative leave to attend the business of the Board and shall receive his regular salary while on the business of the Board.

**Source:** PL 13-55 § 6.

### **§ 205. Appropriation.**

(1) The sum of \$10,000, or so much thereof as may be necessary, is hereby appropriated from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 2005, and to be deemed to include remaining funds from sections 221(b) and 221(6) of Compact 1 for the purpose of defraying the operating and contingent expenses of the Board.

(2) The sum appropriated by subsection (1) of this section shall be placed in the “Medical Licensing Revolving Fund” as established by law. The authority of the President to obligate the funds appropriated hereby shall not lapse.

**Source:** PL 13-55 § 7.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

### **§ 206. License to practice required.**

All persons are prohibited from practicing medical health care in the Federated States of Micronesia, except in a training or residency program strictly supervised in accordance with regulations promulgated under this subchapter, unless duly licensed by the Board. Any license to practice medical health care issued pursuant to the authority of this chapter and valid on the effective date of the Act codified in this subchapter shall remain valid until its expiration date.

**Source:** PL 4-41 § 3; renumbered by PL 13-55 § 3.

**Cross-reference:** The statutory provisions governing the licensing of nursing are found in chapter 9 of this title.

**Editor's note:** The “section 201” referred to was repealed by PL 3-79.

### **§ 207. Regulations; Fee.**

(1) The President is authorized to promulgate regulations, pursuant to chapter 1 of title 17 of this code, to carry into effect this subchapter. He may delegate this authority to the Board.

(2) Authority of the Secretary of Health, Education and Social Affairs to promulgate regulations. In accordance with the provisions of chapter 1 of this title, the Secretary of Health, Education and Social Affairs is hereby authorized and directed to promulgate regulations which shall set

forth licensing and practicing standards for persons desiring to practice or persons practicing medicine in the Federated States of Micronesia. Such regulations shall have the force and effect of law.

(3) Any regulations under this subchapter shall include a definition of the term “practice of medical health care” which shall include activities as a doctor, optometrist, dentist or pharmacist. Such definition shall:

(a) be a reasonable approximation of the ordinary understanding of the activities of doctors, optometrists, dentists and pharmacists;

(b) exempt students participating in a directly controlled program of medical study; and

(c) exempt licensed doctors, optometrists, dentists and pharmacists from such other jurisdictions as may be prescribed by regulation who are in the FSM on consultations and registered with and approved by the Board.

(4) The Board may by regulation require that a fee be paid by applicants for licenses or renewals of licenses. The fees may be different for different types of licenses. In no event shall any fee be greater than \$400.

**Source:** PL 4-41 § 5; PL 4-102 § 2; PL 5-21 § 16; PL 8-45 § 33; renumbered and amended by PL 13-55 § 4.

**Cross-reference:** Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

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### **§ 208. Display and record of licenses.**

Each licensee shall post his license in a prominent location at the primary place of practice within the Federated States of Micronesia. A permanent record of each license and each renewal thereof shall be maintained by the Board. Such licenses shall be available for public inspection.

**Source:** PL 4-41 § 7; PL 5-21 § 16; renumbered by PL 13-55 § 3.

### **§ 209. Revocation or suspension of license—Disciplinary action.**

Any license issued or in effect pursuant to the provisions of this subchapter may be revoked or suspended for cause by the Board. The Board may take such other disciplinary action against the holder of a license as the Board finds appropriate. The provisions of chapter 1 of title 17 of this code shall apply to such action.

**Source:** PL 4-41 § 7; PL 5-21 § 16; renumbered by PL 13-55 § 3.

**Cross-reference:** Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

### **§ 210. Traditional healing arts exempt.**

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Nothing in this subchapter shall be interpreted to preclude the practice of, or require medical health care licenses for, the traditional healing arts as customarily employed by citizens of the Federated States of Micronesia.

**Source:** PL 4-41 § 9; PL 5-21 § 16; renumbered by PL 13-55 § 3.

### **§ 211. Civil liability immunity.**

All members of the Board and its experts, specialists, investigators, informers, and consultants shall be immune from civil liability on any claim based on issuance of a license or on any investigation, or on any written or oral statement made to the Board in connection with any official Board proceeding.

**Source:** PL 4-41 § 10; PL 5-21 § 16; renumbered by PL 13-55 § 3.

### **§ 209. Confidentiality of records.**

All information provided to the Board by an applicant and all information provided to the Board, by any source, in connection with official activities of the Board, shall be confidential and shall be released only in response to a subpoena or court order; provided, however, that applicants shall have access to their records pursuant to procedures established by regulation.

**Source:** PL 4-41 § 11; PL 5-21 § 16.

**Editor's note:** PL 13-55 made amendments to this chapter, but did not renumber or repeal former sections 209, 210 or 213.

### **§ 210. Penalty.**

A person who willfully violates any of the provisions of this subchapter or regulations promulgated under this subchapter is guilty of a crime and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned for not more than one year, or both.

**Source:** PL 4-41 § 12; PL 5-21 § 16.

**Editor's note:** PL 13-55 made amendments to this chapter, but did not renumber or repeal former sections 209, 210 or 213.

## **SUBCHAPTER II Training**

### **§ 213. Training.**

The Department of Health Services, in cooperation with the Department of education, shall conduct or supervise continuing educational programs in the field of public health including preservice and in-service training.

**Source:** TT Code 1966 § 616; TT Code 1970, 63 TTC 151; TT Code 1980, 63 TTC 151.

**Editor's note:** This section was renumbered from “209” at the first cumulative supplement to accommodate codification of PL 4-41 in subchapter I.

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PL 13-55 made amendments to this chapter, but did not renumber or repeal former sections 209, 210 or 213.

PL 4-42, as amended by PL 4-99, authorized the President to enter into an agreement with the University of Hawaii, obligating the Federated States of Micronesia to provide, for each fiscal year commencing 1986 through 1995, up to \$50,000 of indemnification to the University of Hawaii for medical malpractice claims arising from the conduct of employees and students of the medical officer training school in Pohnpei.

**Cross-reference:** The statutory provisions on Education are found in title 40 of this code.

**CHAPTER 3**  
**Health Care Certificates of Need**

**SECTIONS**

- § 301. Short title.
- § 302. Purpose.
- § 303. Definitions.
- § 304. Program established.
- § 305. When required.
- § 306. Applications.
- § 307. Review criteria.
- § 308. Withdrawal.
- § 309. Reconsideration of Agency action.
- § 310. Judicial review.
- § 311. Nontransferability.
- § 312. Reporting.
- § 313. Regulations.
- § 314. Civil penalties.

**§ 301. Short title.**

This chapter may be cited as the “Federated States of Micronesia Health Care Certificate of Need Act of 1982.”

**Source:** PL 2-62 § 1.

**§ 302. Purpose.**

(1) The people of the Federated States of Micronesia are dependent upon the existence of an efficient, effective, and well-coordinated program of health care services and disease prevention activities. In order to achieve the necessary level of efficiency, effectiveness, and coordination, there is a continuous, compelling need for a rational program for the determination of allocations of scarce health resources.

(2) In addition, the impending termination of the Trusteeship Agreement and the probable change in resources available for the delivery of health care and environmental protection requires a careful analysis of the proposed allocation of funds and resources to be used to provide health care, related services, and environmental health protection services to ensure that those funds and resources shall be utilized in accordance with the needs of the people of the Federated States of Micronesia.

(3) Therefore, it is declared to be the public policy of the Federated States of Micronesia and the purpose of this chapter to develop and operate a program which will identify the health needs of the residents of the Federated States of Micronesia and ensure that resources which are proposed for health programs or services meet those needs in the most efficient and effective manner possible.

(4) It is not the intent of this chapter to prohibit or any way curtail the development of private practice of medicine in the Federated States of Micronesia.

**Source:** PL 2-62 § 2.

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The Professional Services Clause of the Constitution demands that when any part of the nat'l gov't contemplates action that may be anticipated to affect the availability of education, health care or legal services, the nat'l officials involved must consider the right of the people to such services and make a reasonable effort to take "every step reasonable and necessary" to avoid unnecessarily reducing the availability of the services. *Carlos v. FSM*, 4 FSM R. 17, 30 (App. 1989).

Since the Constitution's Professional Services Clause is a promise that the nat'l gov't will take every step "reasonable and necessary" to provide health care to its citizens, a court should not lightly accept a contention that 6 FSMC 702(4), which creates a \$20,000 ceiling of governmental liability, shields the gov't against a claim that FSM gov't negligence prevented a person from receiving necessary health care. *Leeruw v. FSM*, 4 FSM R. 350, 362 (Yap 1990).

### **§ 303. Definitions.**

As used in this chapter, unless the context otherwise requires:

(1) "Affected persons" includes the applicant, the Subarea Health Council, persons residing in the geographic area to be served by the applicant, any person who regularly uses health services or facilities within the area to be served by the proposed project, health care facilities and health maintenance organizations located in the service area which provide similar services to those under review, health care facilities and health maintenance organizations which have previously indicated their intention to provide similar services in the future, third-party payers who reimburse health care facilities in the service area, and rate review organizations in the service area.

(2) "Agency" means the Trust Territory Office of Health Services in its designated capacity as the Micronesia Health Planning and Development Agency which was created by designation agreement between the High Commissioner and the United States Secretary of Health, Education, and Welfare as the Trust Territory's designated agency to administer territorial health planning and development functions. The term "Micronesia Health Planning and Development Agency" is further defined to be synonymous with the terms "Territorial Health Planning and Development Agency," "State Health Planning and Development Agency," and "Office of Health Planning and Development." These terms may be used interchangeably to mean the same in this chapter or in the regulations adopted under this chapter.

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(3) “Certificate of need” means an authorization, when required under this chapter, to construct, expand, alter, or convert a health care facility or to initiate, expand, or modify a health care service, or to acquire major medical equipment.

(4) “Cost” for the purposes of determining whether a proposed project is subject to review under this chapter means the fair market value or the amount actually paid to acquire a facility or equipment or to initiate a service, whichever is higher.

(5) “Date activity undertaken” means the date on which institutional health services are actually started.

(6) “Director” means the Director of the Trust Territory Office of Health Services in his capacity as the Director of the Micronesia Health Planning and Development Agency.

(7) “Health care facilities” means hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers including freestanding hemodialysis units, intermediate care facilities, ambulatory surgical facilities, and such other facilities as the agency by regulation shall so designate; provided, that “health care facilities” does not include recognized Christian Science sanitariums, or facilities owned and operated by the United States Federal Government.

(8) “Health maintenance organization” means a public or private organization which is qualified under section 1310 (d) of the United States Public Health Services Act or which:

(a) provides or otherwise makes available to enrolled participant health care services, including at least usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out-of-area coverage; and

(b) is compensated (except for copayments) for the provision of the above-listed services to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and

(c) provides physician services through physicians who are employees or partners in the organization or through arrangements with individual physicians or groups of physicians.

(9) “Institutional health services” means health services provided in or through health care facilities or health maintenance organizations and includes the entities in or through which such services are provided.

(10) “Major medical equipment” means a single unit of medical equipment or a single system of components with related functions which is used to provide medical and other health care services and which costs more than \$50,000.

(11) “Micronesia Health Coordinating Council” means that Health Coordinating Council created by proclamation of the High Commissioner on October 6, 1976, and comprised of the Micronesia Regional Executive Committee and Subarea Councils for the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau, as described in the Council's bylaws.

(12) “Obligation” means entry into a contract enforceable under the laws of this Government, taking of formal action to commit funds within applicant's own organization so as to serve as an in-house contractor, or, in the case of donated property, the date the gift transaction is completed.

(13) “Person” means an individual, a trust, or estate, a partnership, a corporation, a State, the National Government of the Federated States of Micronesia, a political subdivision, or any legal entity recognized by the Federated States of Micronesia Government.

(15) “Territorial health plan” is that comprehensive five-year health plan prepared and established by the Micronesia Health Coordinating Council which shall be based upon State health plans from the several States of the Federated States of Micronesia and shall include a medical facilities plan

with appropriate consideration given to the development of facilities and services in the private sector and an environmental health section.

**Source:** PL 2-62 § 3.

**Editor's note:** Subsections rearranged in alphabetical order in the First Supplement of this code.

**§ 304. Program established.**

There is established the Federated States of Micronesia Certificate of Need Program which shall prescribe the means, procedures, and requirements for health care providers to apply for and obtain certificates of need prior to undertaking construction, expansion, alteration, or conversion of health care facilities or initiation, expansion, or modification of certain health care services including acquisition of equipment.

**Source:** PL 2-62 § 4.

**§ 305. When required.**

(1) Commencing on the effective date of the Act codified in this chapter, no person, whether public or private, shall make capital expenditures for activities enumerated in subsection (2) of this section without first obtaining a certificate of need or an exemption as required under this chapter.

(2) A certificate of need shall be required prior to:

(a) the development of all new institutional health services including, but not limited to, the construction, development, or other establishment of any new health facility;

(b) any obligation for a capital expenditure by or on behalf of a health care facility, other than to acquire an existing health care facility, in excess of \$50,000, including the costs of surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, replacement, or construction of any plant or equipment;

(c) the offering by a health care facility of health services which were not offered on a regular basis in or through such health care facility within the 12-month period preceding the time such services would be offered, if:

(i) the obligation of any capital expenditure is entailed by the addition of services, or

(ii) regardless of whether a capital expenditure is entitled, the annual operating costs for such services will exceed \$10,000;

(d) the termination of a health service which was offered in or through a health care facility if that termination is associated with obligation of any capital expenditures;

(e) the obligation of any capital expenditure by or on behalf of a health care facility which changes the bed capacity of a health care facility by increasing or decreasing the total number of beds (or distributing beds among various categories or relocating such beds from one physical facility or site to another) by ten beds or ten percent of total bed capacity, whichever is less, over a two-year period;

(f) the acquisition by any person of major medical equipment to be owned by or located in a health care facility or, regardless of ownership or location, if the equipment is to be used to provide patient care services, to inpatients or outpatients, unless such services are provided on an occasional basis in the event of natural disaster, major accident, or equipment failure;

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(g) if any person acquires an existing health care facility, that person shall file a notice of intent with the Agency as prescribed under section 306 of this chapter. A certificate of need shall be required for such acquisition unless the Agency finds that the acquirer is a health maintenance organization, or that no changes will result in facilities or services rendered due to the acquisition;

(h) in the event that the Agency issues a certificate of need for a project and within one year of the date the project was undertaken there is a change in that project associated with a capital expenditure, regardless of the amount of the expenditure, that change will be subject to certificate of need review.

(3) A certificate of need which normally would be required under subsection (2) of this section will not be required if;

(a) a health care facility is being acquired by a health maintenance organization or if the acquisition will not result in a change of services or modification of the facility, including the organizational structure;

(b) the applicant is a health maintenance organization if:

(i) it has a current enrollment or reasonable anticipated future enrollment of at least 50,000 persons in the service area,

(ii) the proposed facility or service will be reasonably accessible to the enrolled population,

(iii) at least 75 percent of the persons to be served will be enrollees, and

(iv) an acquisition of a facility or equipment is by lease, the lease will be in effect for at least 15 years' duration after such acquisition;

(c) major medical equipment is acquired by or on behalf of a clinical laboratory to provide clinical laboratory services, if:

(i) the clinical laboratory is independent of a physician's office and a hospital, and

(ii) it is determined under title XVIII of the United States Social Security Act to meet the requirements of paragraphs (10) and (11) of 1861 (s) of that act.

(4) The Agency must issue a certificate of need for a capital expenditure necessary to:

(a) eliminate or prevent a safety hazard;

(b) comply with licensure standards; or

(c) comply with accreditation or certification standards required for the applicant to receive reimbursement under title XVIII or XIX of the United States Social Security Act; provided, that prior to issuance of such a certificate of need the Agency finds that:

(i) that facility or service for which the capital expenditure is proposed is needed, and

(ii) the obligation of the capital expenditure is consistent with the State health plan;

(5) For capital expenditures not meeting the criteria set forth in subsection (4) of this section, the Agency shall issue a certificate of need, if it is found that:

(a) the proposed facility, services, or equipment is needed by the population to be served;

(b) such facility, service, or equipment is consistent with the Trust Territory health plan; and

(c) the project complies with this chapter and regulations adopted under this chapter. The criteria to be used by the Agency in determining need for the facility, service, or equipment shall be as set forth in section 307 of this chapter.

**Source:** PL 2-62 § 5.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Legislature (the Congress of the Federated States of Micronesia) are found in title 3 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

### **§ 306. Applications.**

(1) Applications of certificates of need and notices of intent shall be filed with the Agency on application forms provided by the Agency and shall contain such information and be in such form as the director may require.

(2) At least 30 days before any person acquires or enters into a contract to acquire an existing health care facility or major medical equipment which will not be located in or owned by a health care facility, the person shall notify the Agency of the intended acquisition period. Such notice of intent shall be in writing, containing such information as required by regulations as the Agency may promulgate.

(3) The Agency shall act upon any application submitted pursuant to this chapter within 90 days of receipt of such application; provided, that for reasonable cause and upon notice to the applicant, the Agency may extend its time for review for a specific period not to exceed 30 additional days. In cases where the Agency requests the applicant to provide additional information subsequent to submission of the application, the Agency must, at the request of the applicant, extend the review period for not less than an additional 15 days. Failure to act upon the application within the time period prescribed in this section is grounds for the applicant to seek judicial remedy but shall not be deemed an approval or denial of the certificate of need by the Agency.

(4) Prior to an exemption pursuant to subsection (3) of section 305 of this chapter, a notice of intent must be filed with the Agency and the Agency shall render a finding as to the applicability of the exemption within 30 days of receipt of such notice.

**Source:** PL 2-62 § 6.

### **§ 307. Review criteria.**

The Agency shall adopt regulations under this chapter which shall prescribe specific criteria for the reviewing of certificate of need applications which criteria shall include at least the following general considerations; provided, that criteria adopted for review may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed; and provided further, that such regulations shall be adopted in accordance with section 313 of this chapter:

(1) the relationship of the health services reviewed to the territorial health plan and annual implementation plans;

(2) the relationship of services rendered to the long-range development plan, if any, of the person providing or proposing such services;

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(3) the need that the population served or to be served by such services has for such services and the extent to which residents of the area, and in particular low-income persons, racial and ethnic minorities, women, handicapped, and other underserved groups, and the elderly, are likely to have access to those services. In the case of a reduction or elimination of service, including relocation of a facility or service, the extent to which the alternative arrangements, and the effect of the reduction, elimination, or relocation on the ability of low-income persons, racial and ethnic minorities, women, handicapped persons and other underserved groups, and the elderly, to obtain the needed health care;

(4) the availability of less costly or more effective alternative methods of providing such services;

(5) the immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the costs of and charges for providing health services by the person proposing the new institutional health services;

(6) the relationship of the services proposed to be provided to the existing health care system of the area in which such services are propose to be provided and the probable impact of the proposal on the economic and social development of the Federated States of Micronesia;

(7) the contribution of the proposed service or facility to meeting the health needs of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services, particularly those needs identified in the Trust Territory health plan as priorities. For the purpose of determining the extent the proposed service or facility will be accessible, the Agency shall consider:

(a) the extent to which medically underserved populations currently use the applicant's services in comparison to the percentage of the population in the service area which is underserved and the extent to which medically underserved populations are expected to use the proposed services if approved,

(b) the performance of the applicant in meeting its obligations, if any, under applicable Federal regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving Federal financial assistance, and

(c) the extent to which the applicant offers a range of means by which a person will have access to its services (e.g. outpatient services, hospital privileges, etc.);

(8) the availability of resources, (including health personnel, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the need for alternative uses of those resources as identified by the Trust Territory health plan;

(9) the relationship, including organizational relationship, of the health services proposed to be provided to ancillary or support services;

(10) the effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which services are to be provided;

(11) if proposed health services are to be available in a limited number of facilities, the extent to which the health profession schools in the area will have access to the services for training purposes;

(12) special needs and circumstances of those entities which provide a substantial portion of their services or resources or both to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas;

(13) the special needs and circumstances of biomedical or behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages;

(14) in the case of a construction project:

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- (a) the costs and methods of the proposed construction, including the costs and methods of energy provision, and
- (b) the probable impact of the construction project on the costs of providing health services by the person proposing the construction project and on the costs and charges to the public of providing health services by other persons;
- (15) the special circumstances of health care facilities with respect to the need for conserving energy;
- (16) factors which affect the effect of competition on the supply of health services being reviewed;
- (17) improvements and innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness;
- (18) the efficiency and appropriateness of the use of existing services and facilities similar to those proposed;
- (19) in the case of existing services or facilities, the quality of care provided by those facilities in the past;
- (20) when an application is made by an osteopathic or allopathic facility to construct, expand, or modernize a health care facility or add services or acquire major medical equipment, the need will be considered on the basis of the need for and the availability in the community of services and facilities for osteopathic and allopathic physicians and their patients;
- (21) in the case of applications by health maintenance organizations, the only criteria to be applied for determination of need shall be:
  - (a) the needs of enrolled members and reasonably anticipated new members of the health maintenance organization for the health services proposed to be provided, and
  - (b) the availability of the new health services from nonhealth maintenance organization providers or other health maintenance organizations in a reasonable and cost-effective manner which is consistent with the basic method of operation of the health maintenance organization. In assessing the availability of these services from other providers, the Agency shall consider only whether the services from these providers:
    - (i) would be available under a contract of at least five years' duration,
    - (ii) would be available and conveniently accessible through physicians and other health professionals associated with the health maintenance organization,
    - (iii) would cost no more than if the services were provided by the applicant health maintenance organization, and
    - (iv) would be available in a manner which is administratively feasible to the applicant health maintenance organization.

**Source:** PL 2-62 § 7.

**Cross-reference:** FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

- ...
- (r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.
- ...

FSM Const., art. XIII, § 1 states as follows:

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Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

### **§ 308. Withdrawal.**

The Agency may withdraw a certificate of need if:

- (1) The applications contain false or misleading information or intentionally omits material facts; or
- (2) Circumstances based upon which the certificates of need were issued have changed or new circumstances have developed which alter the need for the projects; provided, that the changed or new circumstances occur prior to the commencement of construction or substantial expenditure or obligation of funds.
- (3) All applications for a certificate of need shall include a timetable for implementing the project. The Agency shall periodically evaluate the progress of the applicant towards implementing the project according to the timetable submitted. Failure of the applicant to make a good faith effort toward implementation may constitute grounds for withdrawal of the certificate of need.
- (4) Any holder of a certificate of need shall be entitled to an administrative hearing prior to the suspension of its certificate of need.

**Source:** PL 2-62 § 8.

### **§ 309. Reconsideration of Agency action.**

- (1) The Agency shall order a public hearing on an application upon written request by any person for the purposes of reconsidering an Agency decision, provided, that:
  - (a) the request is received within 30 days after the decision was rendered; and
  - (b) a good cause is shown. A request for public hearing shall be deemed to have shown good cause if it:
    - (i) presents significant relevant information not previously considered by the Agency,
    - (ii) demonstrates that there have been significant changes in factors or circumstances relied upon by the Agency in making its decision,
    - (iii) demonstrates that the Agency failed to follow appropriate procedures prescribed in these regulations, or
    - (iv) that the Agency acted without regard for a conflict of interest situation.
- (2) The Agency shall provide public notice of reconsideration hearings and adopt hearing procedures in accordance with this chapter and regulations adopted under the provisions of section 313 of this chapter.

**Source:** PL 2-62 § 9.

**Cross-reference:** The statutory provisions on Administrative Procedure are found in title 17 of this code.

### **§ 310. Judicial review.**

- (1) Any person adversely affected by a final decision of the Agency with respect to a certificate of need or an application for exemption may, within a reasonable time after the decision is made, obtain judicial review in accordance with title 17 of this code.

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(2) The court shall affirm the decision of the Agency unless it finds it to be arbitrary or capricious or not made in compliance with applicable law.

(3) For the purposes of this section, “person adversely affected” includes the Agency, any person previously defined as “affected” in section 303 of this chapter, and any person who participated in the review proceeding before the Agency.

**Source:** PL 2-62 § 10.

**Cross-reference:** Title 17 of this code is Administrative Procedure. The statutory provisions on the FSM Supreme Court are found in title 4 of this code.

### **§ 311. Nontransferability.**

A certificate of need issued under this chapter is not transferable without the prior written approval of the Agency.

**Source:** PL 2-62 § 11.

### **§ 312. Reporting.**

The director shall submit an annual report to the Congress of the Federated States of Micronesia on or before January 10th of each year on all activities of the Agency and all funds received by the Agency pursuant to, or by virtue of this chapter.

**Source:** PL 2-62 § 13.

**Cross-reference:** The statutory provisions on the FSM Congress are found in title 3 of this code.

### **§ 313. Regulations.**

(1) The Agency shall adopt and promulgate the regulations authorized in section 307 of this chapter in accordance with the procedures and requirements of the Federated States of Micronesia Administrative Procedure Act, title 17 of this code; except, that compliance by the Agency with the requirements of subsection (2) of this section shall constitute compliance with all the publication and notice requirements set forth in title 17 of this code; and further, that notwithstanding the provisions in sections 103 and 104 of title 17 of this code regarding the filing and effective date of regulations, regulations adopted and promulgated under this chapter shall be filed and become effective in accordance with subsection (3) of this section.

(2) In the adoption and promulgation of regulations pursuant to section 307 of this chapter, the Agency shall, prior to the adoption of regulations prescribing a review process or any revision thereof:

(a) give all interested parties a reasonable opportunity to offer written comments on the review procedures proposed for adoption;

(b) distribute copies of its proposed, adopted, and revised or amended review procedures to public and private health organizations, the Micronesia Health Coordinating Council, the Governors of the Federated States of Micronesia, the High Commissioner, the Secretary of Health, Education and Welfare, the President of the Federated States of Micronesia and such other interested persons as shall request them, including rate-setting agencies and health maintenance organizations should such be established within the Federated States of Micronesia; and

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(c) the Agency shall notify the general public of its intent to adopt procedures and criteria, or revisions thereof, through publication in at least one newspaper of general circulation in the Federated States of Micronesia.

(3) The Agency shall file in the Office of the Registrar of Corporations of the National Government of the Federated States of Micronesia, the office of each State Governor, and with the Clerks of Court to both the State and National Courts and the Trust Territory High Court, a certified copy of the review procedure regulation adopted by it.

(4) Each regulation adopted is effective ten days after completion of the requirements of subsection (2) of this section.

(5) The regulations adopted and promulgated by the Agency in July 1979 in accordance with the act are confirmed and shall remain in effect until amended, repealed, or superseded by the Agency acting pursuant to and in accordance with this chapter.

**Source:** PL 2-62 § 14.

**Cross-reference:** Chapter 1 of title 17 of this code is on FSM Administrative Procedures. The statutory provisions on the FSM Supreme Court are found in title 4 of this code. The statutory provisions on the Registrar of Corporations are found in chapter 2 of title 36 (Corporations and Business Associations) of this code.

**§ 314. Civil penalties.**

Any person violating any of the provisions of section 305 of this chapter shall be subject to the imposition of a civil fine in the amount of \$1,000 for each violation; provided, that for the purpose of determining the amount or fine to be imposed under this chapter, violations shall be deemed recurring, with each week or fractional part thereof that a violation continues being construed as a separate violation.

**Source:** PL 2-62 § 12.

**CHAPTER 4**  
**Immunization of School Children**

**SECTIONS**

- § 401. **Short title.**
- § 402. **Definitions.**
- § 403. **Immunization prior to attending school.**
- § 404. **Exemptions from immunization requirements.**
- § 405. **Immunization rules and regulations authorized.**
- § 406. **Certificate of immunization.**
- § 407. **Noncompliance.**
- § 408. **Emergency powers in the event of an epidemic.**
- § 409. **Grounds for suspension and denial of admission.**

**§ 401. Short title.**

This chapter is known and may be cited as “The School Entry Immunization Act of the Federated States of Micronesia.”

**Source:** PL 1-122 § 1.

**§ 402. Definitions.**

As used in this chapter, unless the context otherwise requires:

- (1) “Department of Social Services” means that Department with the executive branch of the Federated States of Micronesia which is responsible for health and education matters of the National Government.
- (2) “Division of Health Services” means that Department within the executive branch of each State government within the Federated States of Micronesia which is responsible for health matters within a respective State.
- (3) “Emancipated child” means a minor child whose parents have impliedly or expressly surrendered the right to the care and custody of the child and renounced their parental duties without placing the child in the care and custody of a specific guardian.
- (4) “School” means a public, private, or parochial nursery school, day care center, child care facility, family care home, Head Start program, kindergarten, elementary, or secondary school through grade twelve.

**Source:** PL 1-122 § 2.

**Editor's note:** Subsections rearranged in alphabetical order in the 1982 edition of this code.

**§ 403. Immunization prior to attending school.**

Except as provided in section 404 of this chapter; on or after January 1, 1981, no child shall attend any school within the Federated States of Micronesia unless such child shall have presented to an appropriate official of the school, a certificate of immunization against such communicable diseases as may be specified by the Department of Social Services in accordance with the provisions of section 405 of this chapter or, in lieu of the certification, a written request by one parent or guardian of the child or the emancipated child directing local health officials to administer to the child the required

inoculation(s) or the first of the next required series of inoculations within 30 days of the date of submission of the written request.

**Source:** PL 1-122 § 3.

**Cross-reference:** FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...  
(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.  
...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

**§ 404. Exemption from immunization requirements.**

(1) A child may be exempted from receiving the required immunization (s) upon submission of a statement in writing from a licensed physician that the present condition of the child is such that required immunization(s) would endanger the life or health of the child.

(2) The Department of Health Services may provide, by regulation, further exemptions based upon sound medical practice.

**Source:** PL 1-122 § 4; PL 8-128 § 1.

**§ 405. Immunization rules and regulations authorized.**

(1) The Department of Social Services shall promulgate and publish such rules and regulations as may be necessary for the effective implementation and administration of this chapter.

(2) Rules and regulations promulgated pursuant hereto shall include but not be limited to:

(a) the identification of each disease against which immunization is required;

(b) the manner and frequency of administration of each immunizing agent;

(c) the manner in which the schools shall report all incidences of noncompliance and other information needed for statistical purposes to the Department of Social Services and the respective Divisions of Health Services.

(3) All procedures relating to immunization required by rules and regulations promulgated pursuant hereto shall be consistent with recognized standard medical practices. The Department of Social Services is empowered to administer and enforce the immunization program established pursuant to this chapter and, in furtherance thereof, may issue notices of suspension from any school to those not in compliance.

(4) All rule-making authority granted to the Department of Social Services under the provisions of this section is granted on the condition that the Congress of the Federated States of Micronesia reserves the power to amend or rescind any rule promulgated by the Department of Social Services.

**Source:** PL 1-122 § 5.

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**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

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### **§ 406. Certificate of immunization.**

(1) The Department of Social Services shall provide such official forms as may be necessary to certify the immunizations required pursuant to this chapter to the director of each Division of Health Services, who shall distribute such forms to appropriate parties within the State. Any immunization record signed by a licensed physician, licensed nurse, or public health official may be accepted as verification of immunization. All relevant information contained in such immunization record shall be transferred to an official certificate of immunization and verified to the fullest extent possible by an appropriate school official.

(2) Each school shall maintain on file an official certificate of immunization for each child enrolled therein. The official certificate of immunization shall be returned to the parent(s) or guardian(s) of each child, or the emancipated child, who is withdrawn, transferred, promoted out of, or who otherwise leaves the school. The school shall also include a copy of the said certificate with the child's school record when such records are forwarded to any school.

(3) The Department of Social Services or the Division of Health Services may examine, audit, and verify the records of immunizations maintained by each school within a State.

**Source:** PL 1-122 § 6.

### **§ 407. Noncompliance.**

(1) Each child attending a school in the Federated States of Micronesia after January 1, 1981, shall be in compliance with the provisions of this chapter and rules and regulations issued pursuant hereto or be suspended from school. Children enrolling for the first time in a school in the Federated States of Micronesia after January 1, 1981, shall comply with the provisions of this chapter and rules and regulations issued pursuant hereto or be excluded from school.

(2) Prior to the suspension or exclusion of any child for failure to comply with the provisions of this chapter, there shall be direct personal notification by an appropriate school official to the child's parent(s) or guardian(s) or to the emancipated child of noncompliance with this chapter, and of the provisions of sections 403 and 404 of this chapter. In the event of suspension or exclusion, school officials shall notify the Department of Social Services and the Division of Health Services. An agent of the Division of Health Services shall then attempt to secure compliance with this chapter, in order for the child to return to school expeditiously.

**Source:** PL 1-122 § 7.

### **§ 408. Emergency powers in the event of an epidemic.**

If at any time there is, in the opinion of the Division of Health Services, danger of an epidemic from any of the communicable diseases for which an immunization is required pursuant to the rules and regulations promulgated pursuant to section 405 of this chapter, exemptions or exceptions to the requirement of immunization against such disease may be disregarded and suspension from school by

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the Division of Health Services is hereby authorized as a means of lessening the danger of an epidemic. Such suspension shall remain in effect no longer than is necessary, in accordance with accepted standard medical practices.

**Source:** PL 1-122 § 8.

**§ 409. Grounds for suspension and denial of admission.**

Any suspension or exclusion from admission for failure to comply with the provisions of this chapter or rules and regulations issued pursuant hereto shall not be recorded as a disciplinary action, but shall be noted in the child's school record with all relevant information.

**Source:** PL 1-122 § 9.

**CHAPTER 5**  
**Child Abuse**

**SECTIONS**

- § 501. Declaration of policy.**
- § 502. Definitions.**
- § 503. Reporting requirements and procedure.**
- § 504. Immunity of reporting persons from liability.**
- § 505. Physician-patient privilege not applicable.**
- § 506. Violations—Penalties.**

**§ 501. Declaration of policy.**

It is the policy of the Trust Territory government to provide for the protection of children who have injuries inflicted upon them and who, in the absence of appropriate reports concerning their conditions and circumstances, may be further threatened or injured by the conduct of those responsible for their care and protection.

**Source:** COM PL 7-131 § 1; TT Code 1980, 39 TTC 451.

**§ 502. Definitions.**

When used in this chapter, unless the specific content indicates otherwise:

- (1) “Abuse” means any case in which a child exhibits evidence of skin bruising, bleeding, sexual molestation, burns, fracture of any bone, subdural hematoma, soft-tissue swelling, and such condition or death is not justifiably explained, or the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence.
- (2) “Child” means any person under 18 years of age.
- (3) “Person” means any physician, dentist, including interns, health assistant, medex, nurse, practical nurse, schoolteacher or other school official, day-care worker, peace officer, or law enforcement official.

**Source:** COM PL 7-131 § 2; TT Code 1980, 39 TTC 452.

**Editor's note:** Subsections rearranged in alphabetical order in the 1982 edition of this code.

**§ 503. Reporting requirements and procedure.**

- (1) Every person examining, attending, teaching, or treating a child and having reason to believe that such child has had serious injury or injuries, either physical or mental, inflicted upon him or her as a result of abuse, shall report the matter promptly to the chief of police of the district involved.
- (2) When attendance with respect to a child is pursuant to the performance of services as a member of the staff of a district hospital or a Government medical facility in the district center of the administrative district, such staff member shall immediately notify the district director of health services or another person in charge who shall make the report forthwith.
- (3) If the person attending a child is a schoolteacher or other school official, he shall report such abuse to his supervisor or other person in charge of the school and such matter shall then be promptly reported by the latter to the chief of police.

(4) If the report is not made in writing in the first instance, it shall be reduced to writing by the maker thereof as soon as possible after it is initially made by telephone or otherwise, and shall contain the name and address of the child and his or her parents or other persons responsible for his or her care if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor.

**Source:** COM PL 7-131 § 3; TT Code 1980, 39 TTC 453.

**Cross-reference:** FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

**Editor's note:** Minor changes made in phraseology in this section in the 1982 edition of this code.

**§ 504. Immunity of reporting persons from liability.**

Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Likewise, any such participant shall have full immunity with respect to any evidence, oral or written, or any other testimony which he or she might provide in any judicial proceeding resulting from such report.

**Source:** COM PL 7-131 § 4; TT Code 1980, 39 TTC 454.

**§ 505. Physician-patient privilege not applicable.**

In any proceeding resulting from a report made pursuant to this chapter or in any proceeding where such a report or any contents thereof are sought to be introduced in evidence, such report or contents or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege.

**Source:** COM PL 7-131 § 5; TT Code 1980, 39 TTC 455.

**§ 506. Violations—Penalties.**

Anyone knowingly and willfully violating the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$500, or imprisoned for not more than six months, or both.

**Source:** COM PL 7-131 § 6; TT Code 1980, 39 TTC 456.

**CHAPTER 6**  
**Sanitation**

**SECTIONS**

- § 601. Latrines and toilets; Disposal of human excreta generally.**
- § 602. Accumulation of rubbish prohibited.**
- § 603. Standards for and inspection of service establishments.**
- § 604. Standards for and inspection of food.**
- § 605. Standards for and inspection of schools.**
- § 606. Penalties for violation of chapter.**

**§ 601. Latrines and toilets; Disposal of human excreta generally.**

Latrines or toilets conforming to standards established by public health regulations shall be constructed and maintained in connection with each inhabited dwelling in the Trust Territory. Deposit of human intestinal *excreta* in the vicinity of a dwelling or in or within 500 yards of any village in a place other than an approved latrine or toilet is prohibited.

**Source:** TT Code 1966 § 618 (a); TT Code 1970, 63 TTC 201; TT Code 1980, 63 TTC 201.

**Editor's note:** PL 3-35 § 2 provides: "Upon promulgation and taking effect of rules and regulations covering the disposal of human excreta, sanitary conditions of property, inspection of service establishments, food, and inspection of schools by the director of public health, § 618 of the Code of the Trust Territory shall become void and of no force and effect, and be repealed."

**§ 602. Accumulation of rubbish prohibited.**

The accumulation of rubbish, garbage, cans, coconut shells, and other refuse attractive to animal and insect life is prohibited. Any person who shall permit, create, or maintain any such accumulation on land owned or occupied by him, and who fails to remove and dispose of such accumulation within a reasonable time after due notice thereof in writing by a representative of the Department of Health Services shall be deemed to have violated this section.

**Source:** TT Code 1966 § 618 (b); TT Code 1970, 63 TTC 202; TT Code 1980, 63 TTC 202.

**§ 603. Standards for and inspection of service establishments.**

The director of Health Services shall establish standards of sanitation to be maintained by all owners, operators, and employees of and in bakeries, restaurants, food stores, barbershops, beauty parlors, and similar establishments. All such establishments shall be inspected at reasonable intervals during business hours by a representative of the Department of Health Services for the purpose of determining whether such standards are being maintained. Failure to correct any substandard conditions after due notice thereof in writing by such representative shall be deemed a violation of this section.

**Source:** TT Code 1966 § 618 (c); TT Code 1970, 63 TTC 203; TT Code 1980, 63 TTC 203.

**§ 604. Standards for and inspection of food.**

All food offered for public sale shall be subject to inspection by duly authorized representatives of the Department of Health Services. Food for human consumption which is adjudged by him to be unsanitary or of questionable sanitary condition because of contamination, spoilage, animal or insect

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infestation, or adulteration shall, as directed by him, either be destroyed, used as animal food, or labeled to describe its true condition.

**Source:** TT Code 1966 § 618 (d); TT Code 1970, 63 TTC 204; TT Code 1980, 63 TTC 204.

**Cross-reference:** The provisions of the National Food Safety Act are found in chapter 10 of this title.

**§ 605. Standards for and inspection of schools.**

All schools shall be subject to inspection by duly authorized representatives of the Department of Health Services. They shall maintain minimum acceptable standards of health and sanitation. After due warning and advice, failure of a nonpublic school to maintain acceptable standards may result in revocation of its charter.

**Source:** TT Code 1966 § 618 (e); TT Code 1970, 63 TTC 205; TT Code 1980, 63 TTC 205.

**§ 606. Penalties for violation of chapter.**

A person who violates any of the provisions of this chapter or regulations issued pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500, or imprisoned for not more than one year, or both.

**Source:** TT Code 1966 § 625; TT Code 1970, 63 TTC 206; TT Code 1980, 63 TTC 206.

**CHAPTER 7**  
**Disaster Relief Assistance Act of 1989**

**SECTIONS**

- § 701. Short title.**
- § 702. Findings and intent.**
- § 703. Definitions.**
- § 704. Limitations.**
- § 705. Presidential authority.**
- § 706. State responsibilities.**
- § 707. National Government responsibilities.**
- § 708. Restoration of National facilities.**
- § 709. Compensation for property used or destroyed by order of a State Governor.**
- § 710. No cause of action created.**

**§ 701. Short title.**

This chapter is known and may be cited as the “Disaster Relief Assistance Act of 1989.”

**Source:** PL 6-38 § 1.

**Editor’s note:** The previous chapter 7 on Disaster Relief was repealed in its entirety by PL 6-38 § 11.

**§ 702. Findings and intent.**

- (1) The Congress of the Federated States of Micronesia finds and declares that:
  - (a) Natural and man-made disasters kill and injure people, disrupt communities and the workings of government, destroy and damage property, cut off income and cause suffering of other kinds; and
  - (b) Due to the severe impact of disasters, the resources of the States are oftentimes inadequate to cope with them so that the States require the assistance of the National Government and other sources of available aid to restore devastated areas.
- (2) Therefore the Congress of the Federated States of Micronesia intends by this chapter to:
  - (a) Provide for a permanent, orderly program of National Government assistance to the States and local governments in carrying out their responsibilities to alleviate suffering and damage which result from disasters by:
    - (i) Upgrading and broadening the scope of existing disaster relief programs;
    - (ii) Encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and local governments;
    - (iii) Encouraging the adoption of hazard mitigation measures to minimize losses from disasters, including development of land use and construction regulations;
    - (iv) Achieving greater coordination and responsiveness of disaster preparedness and relief programs; and
    - (v) Providing National Government assistance for losses sustained as a result of a disaster.
  - (b) Authorize the President to establish a program of disaster preparedness, assistance and relief that utilizes the services of all appropriate agencies, including the assistance from the

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United States Federal agencies, and other foreign governments and agencies providing assistance during disasters to provide for:

- (i) Preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;
- (ii) Training and exercise;
- (iii) Post-disaster critique and evaluation; and
- (iv) Coordination of the National, States and local preparedness programs.

**Source:** PL 6-38 § 2, modified.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

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The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

### **§ 703. Definitions.**

As used in this chapter, the following definitions shall apply:

- (1) “Disaster” means the imminent threat or the occurrence of widespread injury or death to persons, or severe widespread injury to, or destruction of, property caused by a natural or man-made catastrophe;
- (2) “Hazardous facility” means any material, equipment, or facility, public or private, which threatens loss of life or injury to persons or property substantially worse, in the event of a disaster, than that expected under normal conditions;
- (3) “Man-made” means any event or activity which may cause, or causes, a disaster which is the result of man's actions and not through natural occurrences;
- (4) “National Government” means the Government of the Federated States of Micronesia;
- (5) “State of Emergency” means a formal declaration by the President in a situation where it is required to preserve public peace, health, or safety, at a time of extreme emergency caused by a disaster, and where the States need National and possibly international aid to prevent, prepare for, or recover from the disaster; and
- (6) “States” means the government of the States of the Federated States of Micronesia.

**Source:** PL 6-38 § 3.

### **§ 704. Limitations.**

Except as otherwise provided in this chapter, its language shall not be construed to:

- (1) Impair a civil right during a state of emergency except to the extent actually required for the preservation of peace, health, or safety;
- (2) Interfere with normal programming or the dissemination of news or comment on public affairs; but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster;
- (3) Impair the power of the judiciary except that the declaration of a state of emergency shall be free from judicial interference for 30 days after it is first issued;

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(4) Affect the jurisdiction or responsibilities of State, municipal, or local police forces, and fire fighting forces; or

(5) Limit, modify, or abridge the authority of the President to assist the States in responding to disasters or to exercise any other powers vested in him by the laws of the Federated States of Micronesia, independent of, or in conjunction with, any provisions of this chapter.

**Source:** PL 6-38 § 4.

**Cross-reference:** The statutory provisions on the President and Executive are found in title 2 of this code.

**§ 705. Presidential authority.**

(1) In situations where it is required to preserve public peace, health, or safety, at a time of extreme emergency caused by disaster, the President may declare a state of emergency. Within 30 days after the declaration of emergency, the Congress of the Federated States of Micronesia shall convene at the call of its Presiding Officer or the President to consider revocation, amendment, or extension of the declaration. Unless it expires by its own terms, is revoked or extended, the declaration of emergency is effective for 30 days.

(2) The President shall also have the power to issue Presidential orders as needed in a state of emergency.

(3) Any Presidential order issued under subsection (2) of this section shall be disseminated promptly and brought to the attention of both the general public and government officials responsible for acting during and after any state of emergency.

(4) During a state of emergency, the President is authorized to suspend any regulatory statutes, or any order, rule, or regulation of an executive agency of the National Government. The President shall exercise this authority only if strict adherence to the provisions of the regulatory statute, order, rule, or regulation would substantially prevent, hinder, or delay actions needed to prevent, prepare for, or recover from a disaster.

(5) The President or his designee shall coordinate National Government activities to assist the States to prevent, prepare for, and recover from disasters.

(6) The President may request aid from the United States Government and from other foreign public and private entities providing disaster assistance. The President shall coordinate such foreign aid with assistance provided by the National Government.

(7) In the event of a threatened or existing disaster, the President may provide immediate assistance from the Disaster Relief Fund, Public Law No. 2-64 (subchapter II, chapter 6 of title 55 of this code), to save lives, preserve property, and protect public health and safety. The President may provide such assistance by directing National Government agencies to:

- (a) Give technical assistance and provide advisors to affected states;
- (b) Lend equipment, supplies, facilities, and personnel to affected States; and
- (c) Perform on public or private lands or waters emergency services needed to save lives, preserve property, and protect public health and safety.

**Source:** PL 6-38 § 5.

**Cross-reference:** The provisions of the Disaster Relief Fund are found in subchapter II (§§ 608 to 612) of chapter 6 of title 55 (Government Finance and Contracts) of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

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FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...  
(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.  
...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

### **§ 706. State responsibilities.**

(1) To be eligible for National assistance pursuant to this chapter, a State shall:

(a) Prepare a disaster plan meeting the standards set forth in subsection (2) of section 707 of this chapter and the implementing regulations required by that section;

(b) Appoint a State officer to develop and maintain the State disaster plan, and recommend to the Governor measures appropriate and necessary to prevent, prepare for, and recover from disasters; and

(c) In the event of a threatened or existing disaster, regularly broadcast warnings and information concerning any disaster. The broadcasts shall be in both the predominant native languages of the State and English. The President or his designee may study the need for broadcasts in other languages and accommodate such need in the regulations required by subsection (2) of section 707 of this chapter.

(2) If the Governor of a State determines that the State needs National assistance to prevent, prepare for, or recover from disasters, he may request such aid from the President. The President shall assess the State's need and may render such aid as needed, subject to available funds. Any State desiring to obtain disaster assistance from a foreign government or organization must submit such request to the President for transmission.

**Source:** PL 6-38 § 6.

**Cross-reference:** The statutory provisions on the President and Executive are found in title 2 of this code.

### **§ 707. National Government responsibilities.**

The President or his designee shall:

(1) Assist the States in preparing and maintaining their disaster plans and review the disaster plan prepared by each State to ensure Federated States of Micronesia eligibility for funding under the United States Federal Emergency Management Act.

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(2) Promulgate rules and regulations setting forth minimum requirements for the State disaster plans, in accordance with the requirements of chapter 1 of title 17 of this code. Such rules and regulations shall have the force and effect of law. The regulations may include, but are not limited to:

- (a) General requirements for preventing injury and damage, for speedy action in response to a disaster, and for other measures of emergency relief that may be necessary;
- (b) A requirement that particularly vulnerable areas, including, but not limited to, outlying islands, be identified and accorded special consideration;
- (c) Guidelines for land use regulations and building standards that promote safety; and
- (d) Requirements that appropriate measures be taken to prevent injury and damage, such as the construction of seawalls and emergency shelters.

(3) Create a National disaster plan incorporating features of the State disaster plans. After approval by the President, the National plan shall be promulgated by Presidential order.

(4) Survey industries, facilities, and other public and private resources within the Federated States of Micronesia that may be useful for carrying out the purposes of this chapter. The President or his designee shall inform the States of the results of the survey and, as needed, assist in preparing legislation to ensure governmental control of such resources in the event of a threatened or existing disaster. The President may, by regulation, authorize National assistance to the States in compensating the owners of private resources and facilities used or destroyed in the event of a threatened or existing disaster, pursuant to and subject to the conditions of section 709 of this chapter.

(5) Compose and maintain a register of persons in the Federated States of Micronesia with training and expertise useful in preventing, preparing for, and recovering from disasters. Copies of the revised register shall be distributed annually to the States.

(6) Prepare and distribute to the States a list of foreign public and private assistance programs available to them.

(7) Locate hazardous facilities publicly or privately owned, and, as needed, assist the States in drafting provisions of State disaster plans applicable to such facilities.

(8) Determine what means exist for speedy and efficient communications in the event of a threatened or existing disaster and pursue improvements as necessary to integrate or supplement such communications.

(9) Keep abreast of weather conditions which could potentially develop into a natural disaster.

**Source:** PL 6-38 § 7, modified.

**Cross-reference:** Chapter 1 of title 17 of this code is on FSM Administrative Procedures. The statutory provisions on the President and Executive are found in title 2 of this code. The statutory provisions on FSM Congress are found in title 3 of this code.

**§ 708. Restoration of National facilities.**

(1) The President may authorize repair, restoration, or replacement of any National Government facility that has been destroyed or damaged by disaster, subject to availability of funds. The authorization shall be based on a determination that the repair, restoration, or replacement is so urgent that it cannot await specific legislation to redress the problem.

(2) National Government departments and offices shall assess the natural and man-made hazards that threaten their facilities and shall take appropriate action to reduce or eliminate such hazards.

**Source:** PL 6-38 § 8.

**Cross-reference:** The statutory provisions on the President and Executive are found in title 2 of this code.

**§ 709. Compensation for property used or destroyed by order of a State Governor.**

(1) The National Government shall provide no aid to the States to compensate persons who volunteer their services to prevent, prepare for, or recover from disasters.

(2) If State resources are inadequate to compensate the owners of private land, facilities, and other resources which the Governor of the State orders used or destroyed to prepare for, prevent the spread of, or recover from a disaster, National assistance may be provided from the Disaster Relief Fund, Public Law No. 2-64 (subchapter II, chapter 6 of title 55 of this code), at the discretion of the President. The Governor of the affected State may submit such claims for compensation, calculated according to fair market value, to the President for approval.

(3) The President, in reviewing a State Governor's requests for compensation pursuant to this section, shall ensure that no claimant receives compensation for any part of a claim for which the claimant has received financial aid from other sources, including insurance. Partial compensation for the claimant's loss, received prior to the State Governor's request, shall not preclude National aid for the remainder.

(4) If the President finds that National aid has duplicated any part of aid otherwise received by a claimant, he shall direct such claimant to pay to the Treasurer of the Federated States of Micronesia the amount of such superfluous aid for deposit to the Disaster Relief Fund, Public Law No. 2-64 (subchapter II, chapter 6 of title 55 of this code).

(5) The President is authorized to promulgate rules and regulations to implement the purposes of this section, in accordance with the requirements of chapter 1 of title 17 of this code. Such rules and regulations shall have the force and effect of law.

**Source:** PL 6-38 § 9, modified.

**Cross-reference:** The provisions of the Disaster Relief Fund are found in subchapter II (§§ 608 to 612) of chapter 6 of title 55 (Government Finance and Contracts) of this code. Chapter 1 of title 17 of this code is on Administrative Procedures.

**§ 710. No cause of action created.**

Nothing in this chapter shall be construed to create or authorize any cause of action against the National Government, its officials or employees for failure to prevent or mitigate the effects of a disaster.

**Source:** PL 6-38 § 10.

**Cross-reference:** The statutory provisions on the FSM Supreme Court are found in title 4 of this code.

**CHAPTER 8**  
**Prohibition of Smoking**

**SECTIONS**

**§ 801. Smoking of tobacco prohibited in National Government offices; Signs.**

**§ 801. Smoking of tobacco prohibited in National Government offices; Signs.**

(1) Except in designated areas, smoking of any tobacco product, including but not limited to, cigarettes, cigars, and pipes, shall be prohibited in all National Government-owned offices, and in all offices that are being rented or leased by the National Government for a period exceeding 30 consecutive days. Where only part of a building or facility is rented or leased by the National Government, this prohibition shall only apply to the part of the building or facility that is rented or leased by the National Government for use as an office.

(2) Within every office in which smoking is prohibited under subsection (1) of this section, signs shall be posted in sufficient number and in such locations as to be readily seen by persons within such areas, which shall clearly designate that the smoking of any tobacco product is prohibited.

**Source:** PL 6-9 § 1, modified.

**CHAPTER 9**  
**FSM Nursing Practice Act**

**SECTIONS**

- § 901. Title.
- § 902. Purpose.
- § 903. Definitions.
- § 904. National Board of Nursing established; Membership.
- § 905. Initial terms of office.
- § 906. Terms of office.
- § 907. Notification of expiration of terms.
- § 908. Vacancies.
- § 909. Quorum.
- § 910. Officers and employees.
- § 911. Meetings.
- § 912. Expenses—Compensation.
- § 913. Indemnification of members.
- § 914. Powers and duties.
- § 915. Application of administrative procedures.
- § 916. License requirements.
- § 917. License required.
- § 918. Discipline.
- § 919. Criminal prosecution.
- § 920. Grounds for reporting to the Board.
- § 921. Confidentiality.
- § 922. Immunity of Board members and individuals and institutions complying with this chapter.
- § 923. Practices affected.
- § 924. Establishment.
- § 925. Purpose.
- § 926. Deposits.
- § 927. Administration.
- § 928. Budget report.
- § 929. Persons licensed under previous law.
- § 930. Persons seeking renewal or reinstatement of nursing license.
- § 931. Severability.

**§ 901. Title.**

This chapter shall be known and cited as the “Federated States of Micronesia Nursing Practice Act.”

**Source:** PL 8-45 § 1.

**Cross-reference:** This Act was signed into law by the President on December 22, 1993.

**§ 902. Purpose.**

TITLE 41 – PUBLIC HEALTH, SAFETY, AND WELFARE

The purpose of this chapter is to promote, preserve and protect the public's health, safety and welfare by regulating the practice of and educational preparation and title use for the nursing profession.

**Source:** PL 8-45 § 2.

**§ 903. Definitions.**

In this chapter, unless the context otherwise requires, the following words and phrases shall have the following meanings:

- (1) “Board” or “Board of Nursing” means the National Board of Nursing established under this chapter.
- (2) “Board Administrator” means a person employed by the National Nursing Board to perform administrative responsibilities of the Board.
- (3) “Fund” means the National Board of Nursing Fund established pursuant to section 924 of this chapter.
- (4) “General Fund” means the General Fund of the Federated States of Micronesia.
- (5) “Institution” means, unless otherwise specified in the chapter, any health agency, organization, hospital, or clinical facility, private or public, employing nurses or providing a site for clinical training of nursing students.
- (6) “Licensee” means a Licensed Practical Nurse, Registered Nurse or Advanced Practice Nurse, such as a nurse practitioner, nurse midwife or nurse anesthetist, who is duly licensed by the Board of Nursing under the chapter and regulations promulgated pursuant to this chapter.
- (7) “Petitioner” means a licensee, a potential licensee or a person representing an institution who is petitioning the Board of Nursing for a hearing or who is participating in a hearing before the Board in accordance with procedures established under this chapter and in chapter 1 of title 17 of this code.
- (8) “Practice of nursing” means assisting an individual, family or community to maintain or attain optimal health by the actions, behaviors and attitudes of nurses as delineated in the regulations promulgated pursuant to this chapter. The practice of nursing shall include meeting basic needs of direct care such as safety, nutrition, comfort, confidentiality, personal hygiene and by implementing a strategy of care that is based on the established nursing process. The practice of nursing includes promoting health and preventing illness through health education, counseling and primary care measures as well as practicing advanced clinical skills in caring for those in ill health. The practice of nursing includes a professional commitment towards providing care in a systematic and caring manner, acting as an advocate for the patient/client, family, or community, collaborating with other health professionals and agencies, as well as engaging in self-evaluation, self-initiated and self-directed actions for growth and development.
- (9) “President” means the President of the Federated States of Micronesia.
- (10) “Secretary” means the Secretary of the Federated States of Micronesia National Government Department of Health Services.

**Source:** PL 8-45 § 3, modified.

**Cross-reference:** Chapter 1 of title 17 of this code is on Administrative Procedures.

**§ 904. National Board of Nursing established; Membership.**

- (1) The President shall establish a National Board of Nursing, within the Federated States of Micronesia National Government Department of Health Services, consisting of five members:

## TITLE 41 – PUBLIC HEALTH, SAFETY, AND WELFARE

(a) Four members, one from each State, shall be appointed by the President after consultation with the Governor of each State, based upon recommendations of each respective State Nursing Association. Each Board member shall be a citizen of the Federated States of Micronesia with five years of experience as a Licensed Graduate Nurse, or Registered Nurse.

(b) The President shall appoint one additional Board member who is a nurse representing the nursing profession in the National Government and a citizen of the Federated States of Micronesia.

(2) All Board members shall be voting members with equal voting power.

**Source:** PL 8-45 § 4, modified; PL 12-63 § 1.

**Cross-reference:** Section 501 of title 3 (Legislative) of this code is on advise and consent appointments. The statutory provisions on the President and Executive are found in title 2 of this code.

### **§ 905. Initial terms of office.**

At the creation of the Board, the initial terms of office shall be decided by each member drawing lots. Two Board members shall serve an initial two-year term; two Board members shall serve an initial three-year term; and one Board member shall serve an initial four-year term. After the initial terms have been completed, the regular terms of office shall be as provided in section 906 of this chapter.

**Source:** PL 8-45 § 5.

### **§ 906. Terms of office.**

The regular term of office for all Board members shall be three years. No Board member, including members of the initial Board, shall serve more than two consecutive terms, except that members of the Board may serve beyond the expiration date of their terms until their successors have been appointed.

**Source:** PL 8-45 § 6.

### **§ 907. Notification of expiration of terms.**

The Board, through its chairperson, shall provide written notification to the President, the Congress and each State Nursing Association, of the upcoming expiration of any Board member's term. Written notice shall be given within 90 days of any term expiring.

**Source:** PL 8-45 § 7.

### **§ 908. Vacancies.**

Any vacancy on the Board shall be filled pursuant to section 904 of this chapter and notice shall be given by the Board to the President, the Congress, and each State Nursing Association, pursuant to section 907 of this chapter.

**Source:** PL 8-45 § 8, modified.

**Cross-reference:** The statutory provisions on the President and Executive are found in title 2 of this code. The statutory provisions on FSM Congress are found in title 3 of this code.

### **§ 909. Quorum.**

A quorum of the Board shall consist of a majority of all members. All official business of the Board shall be conducted by a majority of those voting once a quorum is established.

**Source:** PL 8-45 § 9.

**§ 910. Officers and employees.**

(1) The Board shall appoint annually three officers: a chairperson to preside at meetings and represent the Board in its official capacity, which shall include performing the functions of a hearing officer as specified in chapter 1 of title 17 of this code; a vice chairperson to undertake activities of the chairperson in the chairperson's absence; and a secretary-treasurer who shall oversee the Board's financial and recordkeeping obligations.

(2) The Secretary may employ a full-time Board Administrator, as recommended by the Board, to perform administrative responsibilities of the Board and undertake other activities as the Board request. The Secretary may employ other personnel as requested by the Board to assist in performing the Board's duties and responsibilities.

**Source:** PL 8-45 § 10, modified.

**Cross-reference:** Chapter 1 of title 17 of this code is on Administrative Procedures.

**§ 911. Meetings.**

The Board shall hold meetings within the Federated States of Micronesia, rotating meetings among the States, on a regular basis at least twice annually and more often, if necessary, to conduct its business. The meetings shall be open to the public unless the Board is conducting a hearing regarding a disciplinary matter. When the Board is conducting a hearing regarding a disciplinary matter, the hearing will be closed to the public unless the petitioner requests in writing that the hearing be open.

**Source:** PL 8-45 § 11.

**§ 912. Expenses—Compensation.**

The members of the Board shall receive airfare, per diem and car rental, where justified and necessary, at standard National Government rates while on Board-approved business. Those members who are employees of the National Government shall be granted administrative leave and receive their regular salaries while on business of the Board. Other members who are not otherwise being compensated shall receive compensation on a daily basis while on Board-approved business. The rate of compensation shall be established by the Board, but shall not exceed \$50 per day.

**Source:** PL 8-45 § 12.

**§ 913. Indemnification of members.**

Every member of the Board shall be indemnified by the Board against all expenses and liabilities reasonably incurred or imposed upon such member of the Board in connection with any threatened, pending, or completed action, suit or proceeding to which the member may become involved by reason of being or having been a member of the Board. Indemnity applies whether or not such member of the Board is a member of the Board at the time such expenses are incurred. Indemnity applies only to actions performed within the duties of office. The right of indemnity shall be in addition to, and not exclusive of, all other rights to which such members of the Board may be entitled.

Source: PL 8-45 § 13.

**§ 914. Powers and duties.**

The Board shall be responsible for enforcing the provisions of this chapter and the regulations promulgated pursuant to this chapter.

- (1) In carrying out its activities, the Board shall have the following powers:
  - (a) To make, adopt, amend, repeal and enforce regulations and issue guidelines consistent with this chapter;
  - (b) To develop and enforce minimum qualifications for licensure of nurses and define categories of nurses to be authorized by the Board to practice nursing in the Federated States of Micronesia;
  - (c) To grant an advanced practice nurse prescriptive authority, subject to applicable law and as defined and regulated by the regulations promulgated pursuant to this chapter;
  - (d) To develop and enforce reasonable and uniform minimum standards throughout the Federated States of Micronesia for nursing practice and education, including the power to inspect and certify institutions providing nursing education and clinical training within the Federated States of Micronesia;
  - (e) To examine, license and renew the licenses of duly qualified individuals based upon nondiscriminatory, written criteria;
  - (f) To develop and enforce minimum standards for continued competency of licensees continuing or returning to practice;
  - (g) To restrict the practice or limit the license of individuals determined by the Board to constitute a risk to the public's health, safety or welfare;
  - (h) To impose and collect reasonable fees and receive and expend funds in addition to any appropriations from the Federated States of Micronesia, provided the funds are received and expended for the pursuit of authorized objectives of the Board. Such funds shall be kept in a separate account, and financial reports shall be filed no later than October 1 of each year with the President and the Congress;
  - (i) To seek injunctions and court orders to ensure compliance of individuals or institutions with provisions of this chapter when the Board determines that the public's health, safety and welfare is threatened;
  - (j) To assemble and remunerate ad hoc committees and individuals to advise the Board in carrying out its functions under this chapter;
  - (k) To join organizations that develop and regulate the national nursing licensure examinations and promote improved standards of nursing practice;
  - (l) To develop and institute bylaws to govern the functioning of the Board;
  - (m) To adopt and use a seal in official activities of the Board;
  - (n) To institute studies and collect data on nursing practice and education;
  - (o) To provide consultation on nursing and conduct conferences on nursing; and
  - (p) To carry out other activities which are necessary for the Board to perform its functions according to the purpose of this chapter and that are not in conflict with other laws.
- (2) In addition to the powers listed above, the Board has the following duties:
  - (a) To provide adequate notice to all licensees about changes in the nursing law and regulations;
  - (b) To implement a disciplinary process;

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(c) To provide confidentiality to individuals and institutions under investigation by the Board for any possible violation of this chapter or regulations promulgated pursuant to this chapter;

(d) To reasonably manage funds the Board receives from collection of fees and from government appropriations and other sources;

(e) To maintain a current register of nurses licensed to practice nursing in the Federated States of Micronesia. The register shall reflect any disciplinary action taken against a licensee and shall be made available upon request only to employers or potential employers of nurses, to an individual licensee who wishes to confirm his or her license status, and to nursing boards outside the Federated States of Micronesia. The Board may charge a reasonable administrative fee for releasing a copy of the license; and

(f) To take such other actions and assume such other responsibilities as may be necessary or appropriate to carry out the powers and duties granted to or imposed upon it by this chapter.

**Source:** PL 8-45 § 14.

**Cross-reference:** FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...  
(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.  
...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

The statutory provisions on the President and Executive are found in title 2 of this code. The statutory provisions on FSM Congress are found in title 3 of this code.

**§ 915. Application of administrative procedures.**

The procedures set forth in title 17 of this code, including any amendments to it, are expressly adopted and incorporated herein as if all of the provisions of that title were included in this chapter, except that the “highest administration official of the department” shall be the Board; the “hearing officer” shall be the chairperson of the Board; disciplinary hearings shall be closed to the public unless the petitioner requests in writing that the hearing be open to the public; and the Board has the express authority to promulgate regulations.

**Source:** PL 8-45 § 15, modified.

**Cross-reference:** Title 17 of this code is on Administrative Procedure.

**§ 916. License requirements.**

The Board, in accordance with its powers established pursuant to section 914 of this chapter, shall develop regulations stating the requirements for obtaining a license to practice nursing and use the

title of Licensed Practical Nurse, Registered Nurse or Advanced Practice Nurse in the Federated States of Micronesia.

**Source:** PL 8-45 § 16.

**§ 917. License required.**

No person shall practice nursing as defined in this chapter, or use the title of Licensed Practical Nurse, Registered Nurse or Advanced Practice Nurse, or in any way hold herself or himself out to the public or to any person or institution as entitled to practice nursing in the Federated States of Micronesia, without a valid license issued by the Board of Nursing.

**Source:** PL 8-45 § 17.

**§ 918. Discipline.**

Every licensee and applicant for a license may be disciplined as provided in this section. The proceedings under this section shall be conducted in accordance with title 17 of this code and section 915 of this chapter.

(1) The Board may take action against a licensee or an applicant for a license upon reasonable proof that such a person:

(a) Has been convicted by a court or another board of nursing or has entered a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a nurse;

(b) Has been disciplined by a board of nursing in another jurisdiction, including having a nursing license in another jurisdiction revoked, denied, suspended or otherwise restricted for reasons other than failure to renew a license or failure to maintain continuing education standards;

(c) Has engaged in any act that is inconsistent with the standards of nursing practice as defined by regulations promulgated pursuant to this chapter;

(d) Has practiced fraud or deceit in procuring or attempting to procure a license to practice nursing;

(e) Has practiced nursing in another jurisdiction or within the Federated States of Micronesia without a valid current nursing license;

(f) Has violated, attempted to violate, directly or indirectly, or assisted in the violation of any provision of this chapter or the regulations promulgated pursuant to this chapter;

(g) Is addicted to or dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;

(h) Has a physical or mental disability that renders the licensee unable to perform nursing services or duties with reasonable skill or safety to the patient;

(i) Has engaged in any act in the course of routine practice which exceeds the nurse's education and training; or

(j) Has engaged in any act in the course of routine practice that the Board may find constitutes unprofessional conduct as defined in the regulations promulgated pursuant to this chapter.

(2) When the Board finds a person unqualified based on any of the grounds set forth in subsection (1) above, it may impose one or more of the following sanctions:

(a) Deny his or her application for a license;

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- (b) Administer a public or private reprimand;
- (c) Suspend, limit, or restrict his or her license;
- (d) Revoke his or her license;
- (e) Require him or her to submit to care, counseling or treatment by persons approved or designated by the Board, as a condition for initial, continued, or renewed licensure;
- (f) Require him or her to practice under the supervision of a registered nurse designated by the Board for a specified period of time;
- (g) Impose a fine of up to \$1,000 per violation; or
- (h) Take such other action in relation to discipline as the Board in its discretion may deem proper.

(3) The Board may take action against an institution employing nurses, institutions certified to provide education and training for nurses and institutions applying or which should apply for certification upon reasonable proof that such an institution:

- (a) Employs or has employed a person as a nurse and knows or should have known that the individual is not or was not in compliance with this chapter or the rules and regulations promulgated under this chapter;
- (b) Failed to report to the Board any violation of this chapter or of regulations promulgated pursuant to this chapter;
- (c) Has compelled a nurse to practice beyond the nurse's education and training;
- (d) Provides or has provided nursing education, including clinical training, without the Board's certification;
- (e) Provides nursing education, including clinical training, after receiving notice from the Board regarding deficiencies in the institution's operations, without correcting those deficiencies.

(4) When the Board finds that an institution has committed any act or omission detailed in section 918(3) of this section, it may impose one or more of the following sanctions:

- (a) Deny the institution's application for certification as a training and educational facility for nurses;
- (b) Suspend, limit, or restrict the institution's certification as a training and educational facility for nurses;
- (c) Revoke the institution's certification as a training and educational facility for nurses;
- (d) Place the institution, insofar as it operates as a training and educational facility for nurses, on probation;
- (e) Impose a fine of up to \$1,000 per violation; or
- (f) Take such other action as the Board in its discretion may deem proper.

(5) All money collected by the Board as the result of fines imposed by the Board shall be deposited in the General Fund of the Federated States of Micronesia.

**Source:** PL 8-45 § 18.

**Cross-reference:** Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

**§ 919. Criminal prosecution.**

Nothing in this chapter shall be construed as a bar to criminal prosecution for seeking injunctive relief for violating any provision of this chapter.

**Source:** PL 8-45 § 19.

**§ 920. Grounds for reporting to the Board.**

Institutions shall report in writing to the Board under the following circumstances:

- (1) Hospitals and other employers of nurses shall report in writing when a nurse has been terminated voluntarily or involuntarily for any reason that would constitute a violation of this chapter or regulations promulgated pursuant to this chapter. The employer shall provide to the Board the name of the nurse and the reasons for termination of employment;
- (2) Nursing associations shall report in writing when, after investigation and using written, objective criteria, the association determines that a nurse is a threat to the public's health, safety and welfare. The association shall provide to the Board the name of the nurse and the reasons for its determination;
- (3) Insurance companies shall report in writing when they are involved in any malpractice settlement, verdict or court award based on a claim of negligence or willful misconduct on the part of a nurse. The insurance company shall provide to the Board the name of the nurse and a description of the legal action; and
- (4) Other circumstances that may be reasonably required under regulations.

**Source:** PL 8-45 § 20.

**§ 921. Confidentiality.**

The information provided to the Board pursuant to section 920 of this chapter shall be provided in a confidential manner and maintained, to the extent practicable, by the Board in a confidential manner.

**Source:** PL 8-45 § 21.

**§ 922. Immunity of Board members and individuals and institutions complying with this chapter.**

Any member of the Board or any individual or institution reporting to the Board in good faith shall be immune from any civil action for damages to the extent provided by law as a result of reporting or otherwise complying with this chapter. The immunity provided in this section shall apply to any members of a professional review committee and witnesses appearing before the Board in fulfilling the requirements of this chapter.

**Source:** PL 8-45 § 22.

**§ 923. Practices affected.**

No provision in this chapter shall be construed to prohibit:

- (1) The practice of nursing that is an integral part of a nursing education program, provided that nursing students are supervised;
- (2) The rendering of assistance by anyone in the case of an emergency or disaster;
- (3) The incidental care of the sick by members of the family, friends, domestic helpers or persons primarily employed as housekeepers, provided that such care does not constitute the practice of nursing within the meaning of this chapter;
- (4) The practice of spiritual healing in accordance with religious beliefs;

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(5) The practice of any other occupation or profession licensed under the laws of the Federated States of Micronesia, provided that the practice does not constitute the practice of nursing within the meaning of this chapter;

(6) The practice of traditional healing arts as customarily employed by citizens of the Federated States of Micronesia; and

(7) Nurses employed outside of the Federated States of Micronesia who enter the Federated States of Micronesia to provide temporary nursing care to a patient during transport into or out of the Federated States of Micronesia.

**Source:** PL 8-45 § 23.

**§ 924. Establishment.**

This chapter hereby establishes a National Board of Nursing Fund (“Fund”) which shall be separate from the General Fund of the Federated States of Micronesia (“General Fund”).

**Source:** PL 8-45 § 24.

**Cross-reference:** The statutory provisions of other Funds are found in chapter 6 of title 55 (Government Finance and Contracts) of this code.

**§ 925. Purpose.**

The purpose of the Fund is to provide an ongoing fund to allow the Board, in its discretion, to expend funds consistent with the goals of the Board and the purposes of this chapter.

**Source:** PL 8-45 § 25.

**§ 926. Deposits.**

All future appropriations for the Board, as well as revenues received from any source other than fines imposed by the Board, shall be deposited in the Fund. Any unexpended monies in this Fund shall remain in the Fund and shall not lapse. Fines imposed by the Board shall be deposited into the General Fund only.

**Source:** PL 8-45 § 26.

**§ 927. Administration.**

The Fund shall be administered by the President of the Federated States of Micronesia or the President's designee, who shall establish regulations and procedures necessary to implement the provisions of this chapter.

**Source:** PL 8-45 § 27.

**Cross-reference:** The statutory provisions on the President and Executive are found in title 2 of this code.

**§ 928. Budget report.**

The Board shall submit to the Congress and the President a written report of the Board's budget and expenditure of funds. The Board shall submit the report no later than October 1 of each year or whenever Congress or the President requests it.

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**Source:** PL 8-45 § 28.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

### **§ 929. Persons licensed under previous law.**

Any person holding a valid nursing license issued from the Government of the Federated States of Micronesia that is valid on the effective date of this chapter shall be deemed licensed under the provisions of this chapter and shall be subject to the conditions and standards prescribed by the regulations promulgated pursuant to this chapter.

**Source:** PL 8-45 § 29.

### **§ 930. Persons seeking renewal or reinstatement of nursing license.**

Persons seeking a renewal or reinstatement of a nursing license at the effective time of this chapter shall follow the procedures established by the Board of Nursing through regulations promulgated pursuant to this chapter. Any Board member seeking renewal or reinstatement of his or her license may not be part of any Board discussions pertaining to the application, or vote on the renewal or reinstatement.

**Source:** PL 8-45 § 30.

### **§ 931. Severability.**

The provisions of this chapter are severable. If any provision of this chapter is declared unconstitutional, illegal or invalid, the remaining portions of the chapter shall be unaffected and remain in full force and effect.

**Source:** PL 8-45 § 31.

**CHAPTER 10**  
**National Food Safety Act**

**SECTIONS**

- § 1001. Title.
- § 1002. Purpose and intent.
- § 1003. Definitions.
- § 1004. Unfit food.
- § 1005. Adulteration of food.
- § 1006. Deceptive representation.
- § 1006A. Food labeling.
- § 1007. Food standards.
- § 1008. Unsanitary conditions.
- § 1009. Compliance.
- § 1010. Reconditioning.
- § 1011. Food Working Group.
- § 1012. Food inspectors and analysts.
- § 1013. Powers of food inspectors.
- § 1014. Assistance.
- § 1015. Liability.
- § 1016. Storage.
- § 1017. Disposal.
- § 1018. Release.
- § 1019. Interfering with seized article.
- § 1020. Dangerous foods.
- § 1021. Requests for information.
- § 1022. Trade secrets.
- § 1023. Samples.
- § 1024. Licenses.
- § 1025. Regulations.
- § 1026. Hearing.
- § 1027. Sanctions.
- § 1028. Inspection.
- § 1029. Certification.
- § 1030. Regulations.
- § 1031. False certification.
- § 1032. Penalties.

**§ 1001. Title.**

This chapter shall be known and cited as the “National Food Safety Act”.

**Source:** PL 7-116 § 1, modified.

**Cross-reference:** This National Food Safety Act was signed into law by the President on December 22, 1992.

**§ 1002. Purpose and intent.**

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It is the policy of the National Government to assist in the protection of the public from consuming imported food that is adulterated or mislabeled, and to assist efforts by the States to accomplish this objective. It is also the policy of the National Government to ensure that food exported out of the Federated States of Micronesia is safe and of the highest quality. The Secretary of the Department of Health Services shall cooperate with the appropriate State department or agency in administering a food safety program furthering the stated purposes of this chapter. If a State has enacted and is implementing food safety standards covering the areas of labeling, packaging, sanitation, food inspection for purity, quality and fitness for human consumption, and other areas of food safety covered by this chapter, the State has only to meet the minimum standards set forth in this chapter and the regulations promulgated pursuant to this chapter. If a State has not enacted or implemented food safety standards, the National Government should assist the State to meet the minimum standards set forth in this chapter. This chapter shall apply to advertisements, articles, food, labelings, and sales intended for interstate and foreign commerce, and to food articles imported into the Federated States of Micronesia and still located at the port of entry.

**Source:** PL 7-116 § 2.

**Cross-reference:** FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...  
(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.  
...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

**§ 1003. Definitions.**

As used in this chapter, the following terms shall have the meanings set forth below:

(1) “Advertisement” means words, whether written or spoken, symbolic or pictorial representation or design, or any other representation which has the effect of promoting a product for sale.

(2) “Article” means:

(a) Any food, or anything used to label or advertise food; or

(b) Any thing or machine used for the preparation, preservation, packing or storing of any food.

(3) “Export” means to send, mail, ship or carry out of the Federated States of Micronesia in any way food or any food product for sale, trade, exchange, or for any consideration or in pursuance of any sale, trade, exchange, or consideration.

(4) “Food” means any article manufactured, sold or represented to be for human consumption, and includes:

(a) All beverages except sakau and tuba;

(b) All chewing substances except betel nut and the articles used to prepare betel nut for consumption;

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(c) Any ingredient, food additive or other substance that enters into or is capable of entering into or is used in the composition or preparation of food.

(5) “Import” means to bring or carry into the Federated States of Micronesia any food or food product for sale, trade, exchange or consideration, or in pursuance of any sale, trade, exchange or consideration, by any means of transportation.

(6) “Label” means any tag, ticket, stamp, brand, or mark containing any writing, picture, symbol or design, attached to, included in, or accompanying any food or food package.

(7) “Package” includes anything in which any food is wholly or partly placed or packed and includes any basket, pail, tray, or any receptacle whether open or closed.

(8) “Person” includes individuals, partnerships, corporations, associations, and all other entities doing business in the FSM.

(9) “Premises” means;

(a) Any building or tent or other structure, permanent or temporary, the land on which it is situated, and any adjoining land used in connection with it;

(b) Any vehicle or vessel; and

(c) Any place, including a street, open space, or place of public resort, used in the preparation, preservation, packaging or storage of any article.

(10) “Preparation” and “prepare” include manufacture, processing, and any form of treatment.

(11) “Secretary” means the Secretary of the Department of Health Services.

(12) “Sell” means to offer, advertise, keep, deliver, or prepare for sale or exchange, to dispose of for consideration, or to deliver in pursuance of a sale or exchange.

(13) “Unsanitary conditions” means such conditions as could cause contamination of a food with dirt or filth, or could render the food injurious or dangerous to health, whether such contamination or injury or danger actually occurs or not.

(14) “Vehicle” means any device, whether operational or not, that is usually a means of conveyance by land, water or air.

**Source:** PL 7-116 § 3.

**§ 1004. Unfit food.**

No person may import, export, prepare, package or store any food that has been imported or will be exported that is unfit for human consumption, adulterated, damaged, deteriorated, or perished.

**Source:** PL 7-116 § 4.

**§ 1005. Adulteration of food.**

Food is adulterated if:

(1) It contains, or is mixed with, any substance which diminishes in any manner its nutritive or other beneficial properties as compared with such food in a pure, normal or undeteriorated state;

(2) Any substance has been removed from it so that its properties are diminished, as compared with those of a food in a pure state and in an undeteriorated condition;

(3) It contains a substance which is not permitted;

(4) It contains a greater proportion of a substance than is permitted;

(5) It is prepared so that damage, deterioration, or inferiority is or may be concealed;

(6) It is the product of an animal which died:

(a) Naturally;

(b) Of disease; or

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- (c) In the case of a warm-blooded animal, any way other than by slaughter.
- (7) It is injurious to health or dangerous;
- (8) A package or a thing included in a package, or any thing or matter with which the food comes into contact contains a substance which may render the food unfit for human consumption;
- (9) It contains a foreign substance;
- (10) It is in a sealed package which is damaged and can no longer protect the contents from contamination or deterioration; or
- (11) It is in a package, and any contents of the package are different from what the label states the package contains.

**Source:** PL 7-116 § 5.

**§ 1006. Deceptive representation.**

No person shall label, package, prepare, sell or advertise any food that has been imported or is being prepared for export in a manner that is false, misleading or deceptive about its character, nature, value, substance, quality, composition, merit or safety, or in contravention of any regulations promulgated under this chapter.

**Source:** PL 7-116 § 6.

**§ 1006A. Food labeling.**

No person shall import for sale any food that is not labeled in English with:

- (1) the name of the food;
- (2) the name and address of the manufacturer and distributor;
- (3) a complete list of ingredients;
- (4) the country of origin;
- (5) the lot identification code; and
- (6) the expiration date.

Provided that, nothing in this section is intended to prevent the importation of fresh fruit and vegetables.

**Source:** PL 14-59 § 1, modified.

**Editor's note:** Subsections added to comport with standard code formatting.

**§ 1007. Food standards.**

Where a standard has been prescribed by regulation for any food that has been imported or is being prepared for export no person may label, package, prepare, sell, or advertise that food when it does not comply with that standard, in such a way that the food could be mistaken for food which meets the standard.

**Source:** PL 7-116 § 7.

**§ 1008. Unsanitary conditions.**

No person may sell, prepare, package, or store any food that has been imported or is being prepared for export under unsanitary conditions, and may not sell any food which has been shipped under unsanitary conditions.

**Source:** PL 7-116 § 8.

**§ 1009. Compliance.**

- (1) Except as provided in section 1010 of this chapter, no person may import any article which does not comply with the provisions of this chapter.
- (2) No person may import any article into the FSM which is restricted in its sales in the country of origin.
- (3) No person may import any food or package containing food which is marked with an expiration date which has passed.

**Source:** PL 7-116 § 9, modified.

**§ 1010. Reconditioning.**

- (1) An article may be imported into the FSM to relabel or recondition it so that it complies with the provisions of this chapter.
- (2) If relabelling or reconditioning is not completed within three months of the date of importation, the article shall be exported at the expense of the importer within one month, unless the Secretary grants an enlargement of the time. If the article is not exported, it may be seized and disposed of by the Secretary.

**Source:** PL 7-116 § 10.

**§ 1011. Food Working Group.**

The Secretary shall establish a Food Working Group to advise the Secretary and to carry out such functions as the Secretary may assign to them. The Food Working Group members shall be persons experienced in food science, food production, nutrition, administration, and any other areas of expertise which the Secretary deems useful. The Secretary may publish the reports of the Food Working Group.

**Source:** PL 7-116 § 11.

**§ 1012. Food inspectors and analysts.**

- (1) The Secretary may appoint suitably qualified persons to be National Government food inspectors to administer and enforce the provisions of this chapter. While on duty, food inspectors shall wear a badge or other visible emblem which identifies them as National Government food inspectors.
- (2) The Secretary may appoint suitably qualified persons to be National Government food analysts to perform laboratory and field tests upon food and other articles.
- (3) No food inspector or food analyst may be assigned to duties involving any business or operation or articles in which he or she, or his or her parents, children or siblings, has any pecuniary interest whatsoever.
- (4) The Secretary may hire suitably qualified individuals in the States to be food inspectors. Food inspectors and food analysts shall be employees of the National Government for the purposes of section 702 of title 6 of this code.

**Source:** PL 7-116 § 12.

**Cross-reference:** Section 702 of title 6 (Criminal Procedures) of this code is on limited waiver of sovereign immunity.

**§ 1013. Powers of food inspectors.**

- (1) A food inspector may, upon reasonable belief and at any reasonable hour:
  - (a) Enter any port of entry where articles subject to this chapter are being received, shipped or prepared for export, and examine and take samples of articles, and examine anything which appears capable of being used for such preparation, packaging, storage, sale or conveyance;
  - (b) Detain and search any vehicle at any port of entry which is conveying any article subject to this chapter, and examine and take samples of any such article;
  - (c) Open and inspect any package which contains any article subject to this chapter;
  - (d) Examine any books, accounts, documents, or other records that could contain any relevant information about articles subject to this chapter and make copies of them;
  - (e) Destroy or dispose of food for export or food which has been imported which is decayed or putrefied or otherwise a danger to the public health, with prior notice to the owner;
  - (f) Call a member of the local or national police force for necessary assistance. Any member of the national police force shall aid the food inspector as required;
  - (g) Question any person to determine compliance with this chapter.
- (2) After any inspection, the food inspector shall give to the owner or person in charge a written report noting any violation of this chapter or the regulations. A copy of this report shall be given to the Secretary.
- (3) Any person aggrieved by any of these actions has a right to a hearing before the Food Working Group, which shall be conducted according to regulations promulgated by the Secretary.

**Source:** PL 7-116 § 13.

**§ 1014. Assistance.**

- (1) All owners, occupiers, persons in charge, or their employees or agents found on premises or in vehicle containing articles subject to this chapter shall give the food inspector all reasonable assistance in carrying out his duties.
- (2) Any person who obstructs the administration of this law shall be prosecuted by the Office of the Attorney General under section 501 of title 11 of this code.
- (3) Any person who makes any false statement to a National Government food inspector who is executing his duties shall be prosecuted by the Office of the Attorney General pursuant to section 542 or 543 of title 11 of this code.

**Source:** PL 7-116 § 14, modified.

**Cross-reference:** Section 501 of title 11 (Crimes) of this code is on obstructing administration of law or other governmental function. Section 542 of title 11 (Crimes) of this code is on false swearing in official matters. Section 543 of title 11 (Crimes) of this code is on unsworn falsification to authorities.

**§ 1015. Liability.**

No food inspector or analyst shall be liable for any actions taken while executing his or her duties under this chapter, unless he or she has acted in bad faith or without reasonable care.

**Source:** PL 7-116 § 15.

**§ 1016. Storage.**

Any article seized by a food inspector may be stored on the premises where it was seized, or may be removed to any other proper place. If removal is reasonable under the facts known to the food inspector at the time of removal, the costs of removal and storage shall be paid by the owner of the article (s), even if it is later shown that no offense was committed.

**Source:** PL 7-116 § 16.

**§ 1017. Disposal.**

(1) Subject to the requirements below, any food which is unfit under section 1004 of this chapter may be seized by the food inspector. A written receipt must be given to the owner or person in charge of all seized foods.

(2) The food inspector shall give to the owner of seized articles or the agent of the owner written notice concerning when the articles will be disposed of or destroyed. Notice shall be sufficient if it is given to the person in charge of the premises where the food was found.

(3) Within 72 hours of the notice required under subsection (2) of this section, the owner of a seized article or his agent may apply to the Trial Division of the FSM Supreme Court to prevent the destruction or disposal of the article. If the Court finds that the article is unfit under section 1004 of this chapter, it shall be disposed of or destroyed, and the owner shall pay the cost of disposal or destruction.

(4) An article may be destroyed or disposed of as the food inspector determines, if the owner or his agent consents to its destruction, or if the owner or his agent does not apply to the Court within 72 hours of the notice required by this section.

(5) An action in rem may be filed in order to condemn any food which is unfit under section 1004 of this chapter, if the food inspector cannot within 72 hours reasonably determine who owns the food. This action shall be filed in the Trial Division of the FSM Supreme Court in the State where the article is found. Any person who intervenes as claimant shall, if the goods are condemned, pay all costs, storage fees, and expenses of destruction or disposal.

(6) Any amount realized in a disposal, after payment of any costs, shall be deposited in the General Fund.

**Source:** PL 7-116 § 17, modified.

**Cross-reference:** The statutory provisions on the FSM Supreme Court are found in title 4 of this code.

**§ 1018. Release.**

A seized article shall be released when it complies with this chapter and any regulations promulgated under it.

**Source:** PL 7-116 § 18.

**§ 1019. Interfering with seized article.**

No person shall remove, alter or interfere with any seized article without the express permission of a food inspector.

**Source:** PL 7-116 § 19.

**§ 1020. Dangerous foods.**

(1) If the Secretary determines that a food that has been imported or is to be exported is or could be dangerous or injurious to health, the Secretary may so declare, and no such food may be sold in the FSM or exported until the Secretary determines that it is no longer dangerous or injurious to health.

(2) If the Secretary determines that food obtained from a certain area is or could be dangerous or injurious to health, the Secretary may so declare, and no food cultivated, taken, harvested, or otherwise obtained from that area may be sold in the FSM or exported until the Secretary determines that the danger has passed.

(3) An owner of foods banned under this section may appeal to the Food Working Group, which shall conduct a hearing according to regulations promulgated by the Secretary.

**Source:** PL 7-116 § 20.

**§ 1021. Requests for information.**

If any person has or obtains any information concerning investigations of, or the composition, formula or use of, any substance to which this chapter applies, the Secretary may direct that person to promptly furnish such information to the Secretary. If the person refuses to supply the requested information, the Secretary may determine that whatever food or substance the information concerns may not be sold or used for any food-related purposes in the FSM or exported.

**Source:** PL 7-116 § 21.

**§ 1022. Trade secrets.**

(1) Information furnished to the Secretary under section 1021 of this chapter shall remain confidential. The Secretary, the Food Working Group, their employees and agents shall not reveal to any person any information furnished under section 1021 of this chapter, except as is necessary to perform his or her duties under this chapter.

(2) Any person who willfully violates this section shall be guilty of a National crime.

(3) A person convicted under subsection (2) of this section shall be punished by a fine of not more than \$100,000, or imprisonment for not more than five years, or both.

(4) In addition to the above, any person aggrieved by a violation of this section may recover damages, including punitive damages, in a civil suit filed against the offending individual or individuals.

**Source:** PL 7-116 § 22, modified.

**§ 1023. Samples.**

If the Secretary determines that it is necessary for the public interest, he may direct a food inspector to take samples for analysis of any food or article subject to this chapter, whether it appears to conform to the requirements of this chapter or not. A receipt shall be given for all samples taken.

**Source:** PL7-116 § 23.

**§ 1024. Licenses.**

(1) The Secretary may license persons to import, export, prepare, pack, store food that has been imported or is being prepared for export, or transport food that has been imported or is being transported for export, according to regulations promulgated by him under this chapter. All license fees shall be paid into the General Fund.

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(2) A person commits a National crime if he knowingly imports, exports, prepares, packs, or stores food that has been imported or is being prepared for export without a valid license.

(3) A person convicted under subsection (2) of this section shall be punished by a fine of not more than \$1,000 or imprisonment for not more than six months, or both.

**Source:** PL 7-116 § 24, modified.

**Cross-reference:** FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

**§ 1025. Regulations.**

(1) Before any program authorized by this chapter may go into effect, the Secretary shall promulgate regulations providing for the training of food inspectors and setting forth the procedures to be followed by food inspectors in administering and enforcing this chapter, in order to insure that the food inspectors exercise their powers with due regard to the safety of the public, and in such a way as to avoid unnecessary disruptions of business operations.

(2) The Secretary may also promulgate regulations regarding:

- (a) food standards;
- (b) import, export, processing, packaging, labeling, storage, sale, export, conveying, testing, advertising, bookkeeping, and licensing standards;
- (c) licensing fees;
- (d) methods of sampling and analysis;
- (e) food-handlers; and
- (f) the procedures to be followed in the exercise of his duties and those of the Food Group, its employees, and food analysts.

(3) When regulations proposed under this chapter will affect an industry, the members of the Food Working Group shall supply the Secretary with a list of the names of all members of that industry of which they are aware. In addition to the requirements of chapter 1 of title 17 of this code, the Secretary shall give notice of the proposed regulations to those members of the affected industry, and shall conduct at least one public hearing no sooner than ten days after the public and the industry have been notified.

**Source:** PL 7-116 § 25, modified.

**Editor's note:** Subsections added to comport with standard code formatting.

**Cross-reference:** Title 17 of this code is on Administrative Procedure.

**§ 1026. Hearing.**

Except for cases arising under section 1013(1)(e) and section 1017 of this chapter, where immediate seizure or destruction is appropriate, when a food inspector observes a violation of this chapter, or reasonably believes that a violation of this chapter has occurred, he or she shall file a violation report with the Secretary. The Secretary may investigate, and then may order a hearing, which shall be conducted according to established regulations.

**Source:** PL 7-116 § 26, modified.

**§ 1027. Sanctions.**

(1) If the Food Working Group finds after a hearing that a violation of the chapter or regulations has occurred, the Food Working Group may suspend or revoke the license of any person who has violated, or whose employees or agents have violated, any provisions of this chapter or the regulations promulgated under it.

(2) In addition to suspension or revocation of a license, the Food Working Group may order that any article, vehicle, or premises involved in the violation be forfeited. The Food Working Group may dispose of such articles, vehicles, or premises as it sees fit. The costs of disposal shall be paid from the proceeds; all remaining amounts shall be paid into the General Fund.

**Source:** PL 7-116 § 27.

**§ 1028. Inspection.**

Upon the application of any commercial packer of seafood whose business is located within the FSM, the Secretary may designate a food inspector to examine and inspect the seafood for export and its production, packing, canning and labeling. All fees paid for certification shall be paid into the General Fund.

**Source:** PL 7-116 § 28.

**§ 1029. Certification.**

If the food inspector finds that the inspected seafood for export complies with the requirements of this chapter and the applicable regulations, the food inspector shall imprint or attach a certification mark on the food or its packaging.

**Source:** PL 7-116 § 29.

**§ 1030. Regulations.**

After consultation with the Secretary of the Department of Resources and Development, the Secretary of Health Services shall promulgate regulations under chapter 1 of title 17 of this code governing the certification program, including the sanitary and other conditions which seafood packers must meet.

**Source:** PL 7-116 § 30, modified.

**Cross-reference:** Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

**§ 1031. False certification.**

(1) Any person who uses an FSM certification mark without authorization, or who uses a false certification mark, shall be guilty of a National crime.

(2) A person convicted under subsection (1) of this section shall be punished by a fine of not more than \$100,000 or imprisonment for not more than five years, or both.

**Source:** PL 7-116 § 31, modified.

**§ 1032. Penalties.**

If any person or persons violate the provisions of this chapter, other than or in addition to section 1031 of this chapter penalties for false certification, either in person or through another, they shall be guilty of a National crime and shall be punished by any or all of the following:

(1) A fine of up to \$100,000 for each offense;

(2) The loss of their license to import, export, sell, resell, ship, advertise, label, or put into interstate commerce food or food products; and

(3) Imprisonment for not longer than one year. Nothing in this section prohibits any of the States of the Federated States of Micronesia from enacting or adopting State food safety laws or higher food safety standards and making the violation of those laws an additional civil or criminal offense under State law.

**Source:** PL 7-116 § 32.

**CHAPTER 11**  
**Cancer Registry System Act**

**SECTIONS**

- § 1101. Short title.**
- § 1102. Definitions.**
- § 1103. Cancer Registry.**
- § 1104. Participation in program.**
- § 1105. Confidentiality.**
- § 1106. Disclosure.**
- § 1107. Liability.**
- § 1108. Penalties for unauthorized disclosure of confidential information.**

**Editor's note:** This chapter entitled Cancer Registry System Act was enacted by section 1 of PL 15-39.

**§ 1101. Short title.**

This chapter shall be known and cited as the “Cancer Registry System Act”.

**Source:** PL 15-39 § 2.

**Editor's note:** President Manny Mori signed PL 15-39 into law on June 20, 2008. PL 15-39 § 9 provided that the Cancer Registry System Act would take effect upon the President's signature, or upon its becoming law without signature.

**§ 1102. Definitions.**

As used in this chapter, the following terms shall have the following meanings set forth below:

- (1) “Cancer” means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma disease and all benign brain tumors.
- (2) “Health care facility” means a hospital, nursing home, clinic, community health center, dispensary, office or other institution that provides medical care in the Federated States of Micronesia.
- (3) “Health care provider” means a physician (M.D., M.B.B.S., M.O., D.O., or D.D.S), medex, nurse practitioner, registered nurse, graduate nurse, nurse midwife, practical nurse and/or health assistant in the Federated States of Micronesia.
- (4) “Secretary” means the Secretary of Health, Education and Social Affairs (HESA) or person designated by the Secretary to compile information, prepare reports, or perform any functions required or permitted under this Act.

**Source:** PL 15-39 § 3 (part).

**Editor's note:** PL 15-39 contained two sections numbered as section 3. The first created section 1102; the second created section 1103.

**§ 1103. Cancer Registry.**

- (1) The Secretary and each health facility and health care provider shall jointly establish a uniform, nation-wide population-based cancer registry system for the collection of information regarding the incidence of cancer and related data. The Secretary and each health care facility and health care provider shall jointly adopt rules necessary to effect the purposes of this Act, including the

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data to be reported and the effective date after which reporting by health care facilities and health care providers shall be required.

(2) The Secretary shall establish a training program for the personnel of participating health care facilities and a quality control program for cancer data. The Secretary shall collaborate in studies with clinicians and epidemiologists and publish reports on the results of such studies. The Secretary shall cooperate with the U.S. National Institutes of Health and the Centers for Disease Control in providing cancer incidence data.

**Source:** PL 15-39 § 3 (part).

**Cross-reference:** FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

**Editor's note:** PL 15-39 contained two sections numbered as section 3. The first created section 1102; the second created section 1103.

**§ 1104. Participation in program.**

Each health care facility and health care provider diagnosing or providing treatment to cancer patients shall report to the Secretary each cancer case that occurs within that facility or provider's office. Within 120 days of the effective date of this Act, the Secretary and each health care provider and health care facility shall jointly promulgate a plan to set forth the format, content and timing of the report required by this section, including remedies and penalties for non-compliance. Any cancer patient whose diagnosis or treatment is reported to the Secretary shall be informed of this fact by the health care facility or health care provider prior to submission of the report. This section shall only apply to cancer cases diagnosed or treated following the effective date of this Act.

**Source:** PL 15-39 § 4.

**§ 1105. Confidentiality.**

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(1) All information reported pursuant to this chapter shall be confidential and privileged. The Secretary shall take strict measures to ensure that all identifying information is kept confidential.

(2) All identifying information regarding an individual patient, health care provider or health care facility contained in records of interviews, written reports, letters or statements procured by the Secretary, or by any other person, agency or organization acting jointly with the Secretary, in connection with cancer morbidity and mortality studies shall be confidential and privileged and may be used solely for the purposes of the study. Nothing in this section shall prevent the Secretary from publishing statistical compilations relating to morbidity and mortality studies, which do not identify individual cases or sources of information.

**Source:** PL 15-39 § 5.

**§ 1106. Disclosure.**

(1) The Secretary may enter into agreements to exchange confidential information with other cancer registries or health care facilities in order to obtain complete reports of FSM residents diagnosed or treated in other countries, or subdivisions thereof, and to provide information to other countries, and subdivisions thereof, regarding their residents diagnosed or treated in the FSM.

(2) The Secretary may furnish statistical information to other nations' cancer registries, cancer control agencies, or health researchers in order to collaborate in a national or regional cancer registry or to collaborate in cancer control and prevention research studies. Before releasing confidential information, the Secretary shall first obtain evidence of the approval of his or her academic committee for the protection of human subjects or the equivalent.

**Source:** PL 15-39 § 6.

**§ 1107. Liability.**

(1) No action for damages arising from the disclosure of confidential or privileged information may be maintained against any person, or the employer or employee of any person, who participates in good faith in the reporting of cancer registry data or data for cancer morbidity or mortality studies in accordance with this chapter.

(2) No license of a health care facility or health care provider may be denied, suspended or revoked for the good faith disclosure of confidential or privileged information in the reporting of cancer registry data for cancer morbidity or mortality studies in accordance with this chapter.

(3) Nothing in this section shall be construed to apply to the unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct.

**Source:** PL 15-39 § 7.

**§ 1108. Penalties for unauthorized disclosure of confidential information.**

Any person who discloses confidential information obtained for the purposes of this chapter, except in accordance with this chapter, shall be guilty of an offense and shall be liable on conviction in a court of law to a fine of \$2,000 or to imprisonment for not more than six months, or to both such fine and imprisonment.

**Source:** PL 15-39 § 8.

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**Editor's note:** PL 15-39 § 8 designated a subsection (1), but no others. The subsection number has been omitted to comply with standard code formatting.